

T H E
PERPETUAL LAWS

O F T H E
STATE OF NEW-HAMPSHIRE,

FROM THE
SESSION OF THE GENERAL-COURT, July 1776,

TO THE

SESSION IN DECEMBER 1788,

CONTINUED INTO THE PRESENT YEAR 1789,

COMPILED AND ARRANGED TO THE WISHES OF

THE GENTLEMEN OF THE LAW, AND UNDER

THE DIRECTION OF THE GENERAL-COURT.

Printed from attested copies of the original Acts.

Misera Servitus est, ubi jus est vagum aut Incognitum.

PORTSMOUTH: NEW-HAMPSHIRE, PRINTED BY JOHN
MELCHER, M,DCC,LXXXIX.



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STATE OF NEW-HAMPSHIRE.

IN THE HOUSE OF REPRESENTATIVES,

JANUARY 29, 1789.

THE committee on the propriety of procuring a number of printed copies of the laws of this state, reported that a number of copies, at the expence of the state, be procured, equal to the number of towns and places inhabited in this state, of the kind, and in the form mentioned in Melcher's proposals, and at the price therein mentioned ; and that the secretary (the printer paying him therefor) furnish him with a correct copy : that Mr. Pickering and Mr. Humphreys, be a committee to inspect the press, and determine how many, and what laws shall be published in said work, which shall be prefaced with the constitution of this state.

Signed,

EBENEZER SMITH, for the committee.

Which report being read and considered, voted, that it be received and accepted.

Sent up for concurrence,

THOMAS BARTLETT, Speaker.

IN SENATE, JANUARY 30, 1789, read and concurred,
J. PEARSON, Secretary.

Copy examined,

Per J. PEARSON, Secretary.

Secretary's-Office, May 20, 1789.

I DO hereby certify, that agreeably to the directions in the foregoing vote of the general court, I have furnished Mr. John Melcher, with correct copies of all the original statutes of this state, which he was directed to publish, and which are comprized in this volumn.

Attest,

JOSEPH PEARSON, Secretary.

WE being a committee appointed by the general court for the purposes expressed in the foregoing vote, have in pursuance thereof, carefully inspected the acts and laws of this state, and selected for publication those contained in this volumn.

JOHN PICKERING,
DANIEL HUMPHREYS.

Portsmouth, May 20, 1789.



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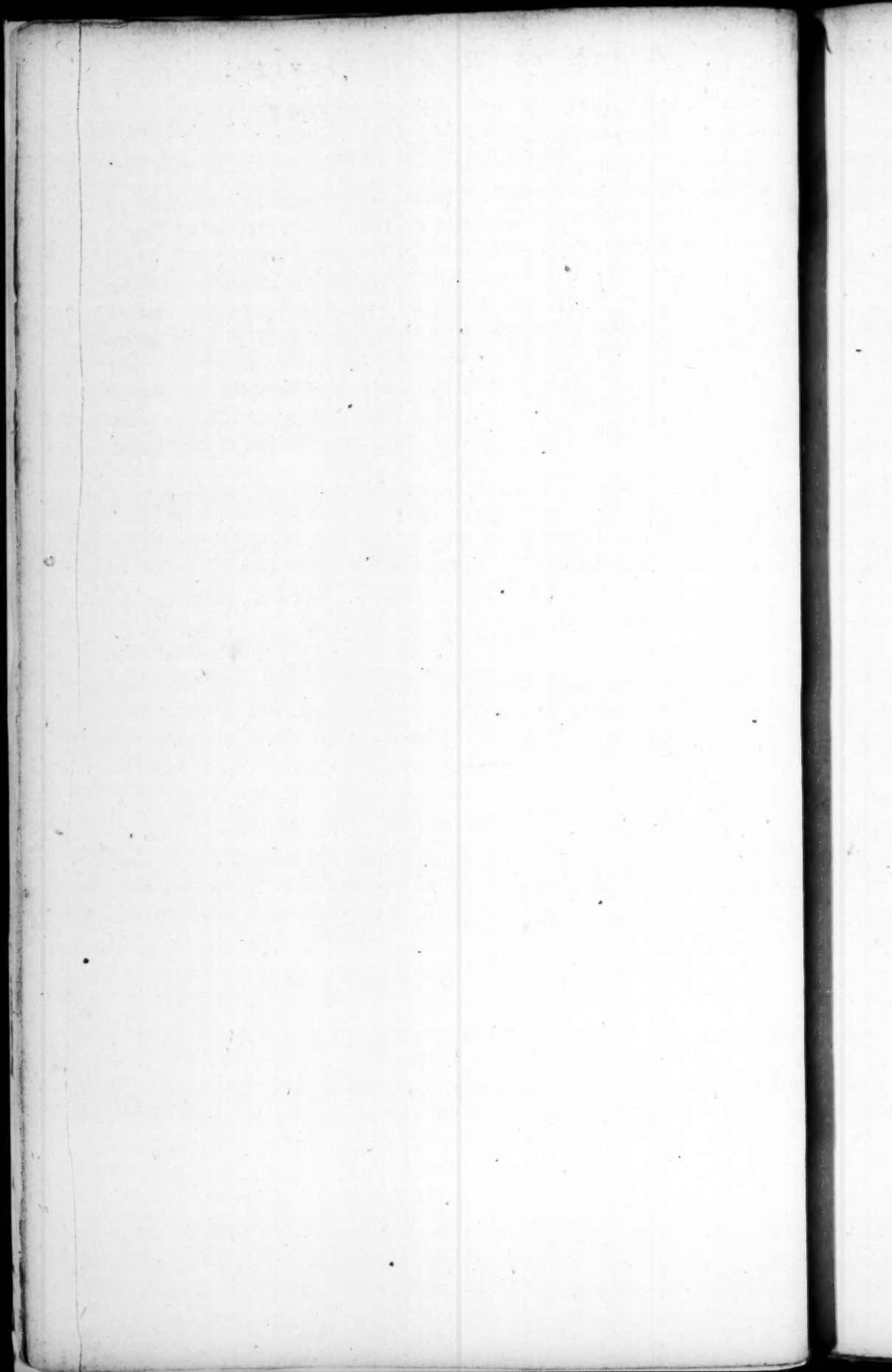
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DANIEL HUMPHREYS.

Portsmouth, May 20, 1789.



TO THE HONORABLE
THE JUSTICES
OF THE
SUPERIOR COURT
OF THE
STATE OF NEW-HAMPSHIRE:

THIS EDITION, OF THE
PERPETUAL LAWS

OF THE STATE AFORESAID,

IS MOST

RESPECTFULLY DEDICATED

BY THE EDITOR,

THEIR HONOUR'S VERY HUMBLE

AND MOST OBEDIENT SERVANT,

JOHN MELCHER.

Portsmouth, May 21, 1789.



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C O N S T I T U T I O N,
CONTAINING A BILL OF RIGHTS,
AND
F O R M O F G O V E R N M E N T,

Agreed upon by the Delegates of the people of the State of New-Hampshire, in Convention, held at Concord, on the first Tuesday of June, 1783 ; submitted to, and approved of, by the people of said State ; and established by their Delegates in Convention, October 31, 1783.

P A R T I.
T H E B I L L O F R I G H T S.

A R T I C L E I.

ALL men are born equally free and independent ; therefore, all government of right originates from the people, is founded in consent, and instituted for the general good.

II. All men have certain natural, essential, and inherent rights ; among which are—the enjoying and defending life and liberty—acquiring, possessing and protecting property—and in a word, of seeking and obtaining happiness.

III. When men enter into a state of society, they surrender up some of their natural rights to that society, in order to insure the protection of others ; and, without such an equivalent, the surrender is void.

IV. Among the natural rights, some are in their very nature unalienable, because no equivalent can be given or received for them. Of this kind are the RIGHTS OF CONSCIENCE.

V. Every individual has a natural and unalienable right to worship GOD according to the dictates of his own conscience, and reason ; and no subject shall be hurt, molested, or restrained in his person, liberty or estate for worshipping GOD, in the manner and season most agreeable to the dictates of his own conscience, or for his religious profession, sentiments or persuasion ;

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provided

provided he doth not disturb the public peace, or disturb others in their religious worship.

VI. As morality and piety, rightly grounded on evangelical principles, will give the best and greatest security to government, and will lay in the hearts of men the strongest obligations to due subjection ; and as the knowledge of these, is most likely to be propagated through a society by the institution of the public worship of the DEITY, and of public instruction in morality and religion ; therefore, to promote those important purposes, the people of this state have a right to empower, and do hereby fully empower the legislature to authorize from time to time, the several towns, parishes, bodies-corporate, or religious societies within this state, to make adequate provision at their own expence, for the support and maintenance of public protestant teachers of piety, religion and morality :

Provided notwithstanding, That the several towns, parishes, bodies-corporate, or religious societies, shall at all times have the exclusive right of electing their own public teachers, and of contracting with them for their support and maintenance. And no person of any one particular religious sect or denomination, shall ever be compelled to pay towards the support of the teacher or teachers of another persuasion, sect or denomination.

And every denomination of christians demeaning themselves quietly, and as good subjects of the state, shall be equally under the protection of the law : and no subordination of any one sect or denomination to another, shall ever be established by law.

And nothing herein shall be understood to affect any former contracts made for the support of the ministry ; but all such contracts shall remain, and be in the same state as if this constitution had not been made.

VII. The people of this state, have the sole and exclusive right of governing themselves as a free, sovereign, and independent state, and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction and right pertaining thereto, which is not, or may not hereafter be by them expressly delegated to the United States of America in Congress assembled.

VIII. All power residing originally in, and being derived from the people, all the magistrates and officers of government, are their substitutes and agents, and at all times accountable to them.

IX. No office or place whatsoever in government, shall be hereditary—the abilities and integrity requisite in all, not being transmissible to posterity or relations.

X. Government being instituted for the common benefit, protection, and security of the whole community, and not for the private

private interest or emolument of any one man, family or class of men; therefore, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought, to reform the old, or establish a new government. The doctrine of non-resistance against arbitrary power, and oppression, is absurd, slavish, and destructive of the good and happiness of mankind.

XI. All elections ought to be free, and every inhabitant of the state having the proper qualifications, has equal right to elect, and be elected into office.

XII. Every member of the community has a right to be protected by it in the enjoyment of his life, liberty and property; he is therefore bound to contribute his share in the expence of such protection, and to yield his personal service when necessary, or an equivalent. But no part of a man's property shall be taken from him, or applied to public uses, without his own consent, or that of the representative body of the people. Nor are the inhabitants of this state contrrollable by any other laws than those to which they or their representative body have given their consent.

XIII. No person who is conscientiously scrupulous about the lawfulness of bearing arms, shall be compelled thereto, provided he will pay on equivalent.

XIV. Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property or character, to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without delay, conformably to the laws.

XV. No subject shall be held to answer for any crime, or offence, until the same is fully and plainly, substantially and formally, described to him; or be compelled to accuse or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to himself; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, and counsel. And no subject shall be arrested, imprisoned, despoiled, or deprived of his property, immunities, or privileges, put out of the protection of the law, exiled or deprived of his life, liberty, or estate, but by the judgment of his peers or the law of the land.

XVI. No subject shall be liable to be tried, after an acquittal, for the same crime or offence.—Nor shall the legislature make any law that shall subject any person to a capital punishment, excepting for the government of the army and navy, and the militia in actual service, without trial by jury.

XVII.

XVII. In criminal prosecutions, the trial of facts in the vicinity where they happen, is so essential to the security of the life, liberty and estate of the citizen, that no crime or offence ought to be tried in any other county than that in which it is committed ; except in cases of general insurrection in any particular county, when it shall appear to the Judges of the Superior Court, that an impartial trial cannot be had in the county where the offence may be committed, and upon their report, the assembly shall think proper to direct the trial in the nearest county in which an impartial trial can be obtained.

XVIII. All penalties ought to be proportioned to the nature of the offence. No wise legislature will affix the same punishment to the crimes of theft, forgery and the like, which they do to those of murder and treason ; where the same undistinguishing severity is exerted against all offences ; the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant with as little compunction as they do those of the lightest dye : For the same reason a multitude of sanguinary laws is both impolitic and unjust. The true design of all punishments being to reform, not to exterminate, mankind.

XIX. Every subject hath a right to be secure from all unreasonable searches and seizures of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if the cause or foundation of them be not previously supported by oath, or affirmation ; and if the order in the warrant to a civil officer, to make search in suspected places, or to arrest one or more suspected persons, or to seize their property, be not accompanied with a special designation of the persons or objects of search, arrest, or seizure ; and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

XX. In all controversies concerning property, and in all suits between two or more persons, except in cases in which it has been heretofore otherwise used and practised, the parties have a right to a trial by jury ; and this method of procedure shall be held sacred, unless in causes arising on the high seas, and such as relate to mariners wages, the legislature shall think it necessary hereafter to alter it.

XXI. In order to reap the fullest advantage of the inestimable privilege of the trial by jury, great care ought to be taken that none but qualified persons should be appointed to serve ; and such ought to be fully compensated for their travel, time and attendance.

XXII. The Liberty of the Press is essential to the security of freedom in a state ; it ought, therefore, to be inviolably preserved,

XXIII.

XXIII. Retrospective laws are highly injurious, oppressive and unjust. No such laws, therefore, should be made, either for the decision of civil causes, or the punishment of offences.

XXIV. A well regulated militia is the proper, natural, and sure defence of a state,

XXV. Standing armies are dangerous to liberty, and ought not to be raised or kept up without the consent of the legislature.

XXVI. In all cases, and at all times, the military ought to be under strict subordination to, and governed by the civil power.

XXVII. No soldier in time of peace, shall be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

XXVIII. No subsidy, charge, tax, impost or duty shall be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature, or authority derived from that body.

XXIX. The power of suspending the laws, or the execution of them, ought never to be exercised but by the legislature, or by authority derived therefrom, to be exercised in such particular cases only as the legislature shall expressly provide for.

XXX. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any action, complaint, or prosecution, in any other court or place whatsoever.

XXXI. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening and confirming the laws, and for making new ones, as the common good may require.

XXXII. The people have a right in an orderly and peaceable manner, to assemble and consult upon the common good, give instructions to their representatives; and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them, and of the grievances they suffer.

XXXIII. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

XXXIV. No person can in any case be subjected to law martial, or to any pains, or penalties, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

XXXV. It is essential to the preservation of the rights of every individual, his life, liberty, property and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as impartial

partial as the lot of humanity will admit. It is therefore not only the best policy, but for the security of the rights of the people, that the judges of the supreme (or superior) judicial court should hold their offices so long as they behave well ; and that they should have honorable salaries, ascertained and established by standing laws,

XXXVI. Economy being a most essential virtue in all states, especially in a young one ; no pension shall be granted, but in consideration of actual services, and such pensions ought to be granted with great caution, by the legislature, and never for more than one year at a time.

XXXVII. In the government of this state, the three essential powers thereof, to wit, the legislative, executive and judicial, ought to be kept as separate from and independent of each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of union and amity.

XXXVIII. A frequent recurrence to the fundamental principles of the Constitution, and a constant adherence to justice, moderation, temperance, industry, frugality, and all the social virtues, are indispensably necessary to preserve the blessings of liberty and good government ; the people ought, therefore, to have a particular regard to all those principles in the choice of their officers and representatives : and they have a right to require of their law-givers and magistrates, an exact and constant observance of them in the formation and execution of the laws necessary for the good administration of government.



P A R T II.

T H E

FORM OF GOVERNMENT.

THE people inhabiting the territory formerly called the Province of New-Hampshire, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent Body-politic, or State, by the name of the STATE OF NEW-HAMPSHIRE.

THE GENERAL COURT.

THE supreme legislative power within this state shall be vested in the senate and house of representatives, each of which shall have a negative on the other.

THE senate and house shall assemble every year on the first Wednesday of June, and at such other times as they may judge necessary; and shall dissolve, and be dissolved, seven days next preceding the said first Wednesday of June; and shall be stiled THE GENERAL COURT OF NEW-HAMPSHIRE.

THE general court shall forever have full power and authority to erect and constitute judicatories and courts of record, or other courts, to be holden in the name of the state, for the hearing, trying, and determining all manner of crimes, offences, pleas, processes, complaints, actions, causes, matters and things whatsoever, arising, or happening within this state, or between or concerning persons inhabiting or residing, or brought within the same, whether the same be criminal or civil, or whether the crimes be capital or not capital, and whether the said pleas be real, personal, or mixed; and for the awarding and issuing execution thereon. To which courts and judicatories are hereby given and granted full power and authority, from time to time to administer oaths or affirmations, for the better discovery of truth in any matter in controversy, or depending before them.

AND farther, full power and authority are hereby given and granted to the said general court, from time to time, to make, ordain and establish, all manner of wholesome and reasonable orders, laws, statutes, ordinances, directions and instructions, either with penalties or without; so as the same be not repugnant, or contrary to this constitution, as they may judge for the benefit and welfare

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of this state, and for the governing and ordering thereof, and of the subjects of the same, for the necessary support and defence of the government thereof ; and to name and settle annually, or provide by fixed laws, for the naming and settling all civil officers within this state ; such officers excepted, the election and appointment of whom, are hereafter in this form of government otherwise provided for ; and to set forth the several duties, powers and limits, of the several civil and military officers of this state, and the forms of such oaths or affirmations, as shall be respectively administered unto them for the execution of their several offices and places, so as the same be not repugnant or contrary to this constitution ; and also to impose fines, mulcts, imprisonments, and other punishments ; and to impose and levy proportional and reasonable assessments, rates and taxes, upon all the inhabitants of, and residents within the said state ; and upon all estates within the same ; to be issued and disposed of by warrant under the hand of the president of this state for the time being, with the advice and consent of the council, for the public service, in the necessary defence and support of the government of this state, and the protection and preservation of the subjects thereof, according to such acts as are, or shall be in force within the same.

AND while the public charges of government or any part thereof, shall be assessed on polls and estates in the manner that has heretofore been practised ; in order that such assessments may be made with equality, there shall be a valuation of the estates within the state taken anew once in every five years at least, and as much oftener as the general court shall order.

S E N A T E.

THERE shall be annually elected by the freeholders and other inhabitants of this state, qualified as in this constitution is provided, twelve persons to be senators for the year ensuing their election ; to be chosen in and by the inhabitants of the districts, into which this state may from time to time be divided by the general court, for that purpose : and the general court in assigning the number to be elected by the respective districts, shall govern themselves by the proportion of public taxes paid by the said districts ; and timely make known to the inhabitants of the state, the limits of each district, and the number of senators to be elected therein ; provided the number of such districts shall never be more than ten, nor less than five.

AND the several counties in this state, shall, until the general court shall order otherwise, be districts for the election of senators, and shall elect the following number, viz.

ROCKINGHAM,

ROCKINGHAM, five. STRAFFORD, two. HILLSBOROUGH, two. CHESHIRE, two. GRAFTON, one.

THE senate shall be the first branch of the legislature : and the senators shall be chosen in the following manner, viz. Every male inhabitant of each town and parish with town privileges in the several counties in this state, of twenty-one years of age and upwards, paying for himself a poll tax, shall have a right at the annual or other meetings of the inhabitants of said towns and parishes, to be duly warned and holden annually forever in the month of March ; to vote in the town or parish wherein he dwells, for the senators in the county or district whereof he is a member.

AND every person qualified as the constitution provides, shall be considered an inhabitant for the purpose of electing and being elected into any office or place within this state, in that town, parish and plantation where he dwelleth and hath his home.

THE selectmen of the several towns and parishes aforesaid, shall, during the choice of senators, preside at such meetings impartially, and shall receive the votes of all the inhabitants of such towns and parishes present and qualified to vote for senators, and shall sort and count the same in the meeting, and in presence of the town-clerk, who shall make a fair record in presence of the selectmen, and in open meeting, of the name of every person voted for, and the number of votes against his name ; and a fair copy of this record shall be attested by the selectmen and town-clerk, and shall be sealed up and directed to the secretary of the state, with a superscription expressing the purport thereof, and delivered by said clerk to the sheriff of the county in which such town or parish lies, thirty days at least, before the first Wednesday of June ; and the sheriff of each county, or his deputy, shall deliver all such certificates by him received, into the secretary's office, seventeen days at least, before the first Wednesday of June.

AND the inhabitants of plantations and places unincorporated, qualified as this constitution provides, who are or shall be required to assess taxes upon themselves towards the support of government, or shall be taxed therefor, shall have the same privilege of voting for senators in the plantations and places wherein they reside, as the inhabitants of the respective towns and parishes aforesaid have. And the meetings of such plantations and places for that purpose, shall be holden annually in the month of March, at such places respectively therein, as the assessors thereof shall direct ; which assessors shall have like authority for notifying the electors, collecting and returning the votes, as the selectmen and town-clerks have in their several towns by this constitution.

AND, that there may be a due meeting of senators, on the first Wednesday of June, annually, the president and three of the council for the time being, shall as soon as may, examine the returned copies of such records ; and fourteen days before the said first Wednesday of June, he shall issue his summons to such persons as appear to be chosen senators by a majority of votes, to attend and take their seats on that day : *Provided, nevertheless*, that for the first year the said returned copies shall be examined by the president and five of the council of the former constitution of government ; and the said president shall in like manner notify the persons elected, to attend and take their seats accordingly.

THE senate shall be final judges of the elections, returns, and qualifications of their own members, as pointed out in this constitution, and shall on the said first Wednesday of June annually, determine and declare, who are elected by each district to be senators by a majority of votes: and in case there shall not appear to be the full number returned elected by a majority of votes for any district, the deficiency shall be supplied in the following manner, viz. The members of the house of representatives and such senators as shall be declared elected, shall take the names of such persons as shall be found to have the highest number of votes in each district, and not elected, amounting to twice the number of senators wanting, if there be so many voted for ; and out of these shall elect by joint ballot the number of senators wanted for such district : and in this manner all such vacancies shall be filled up in every district of the state, and in like manner all vacancies in the senate, arising by death, removal out of the state, or otherwise, shall be supplied as soon as may be after such vacancies happen.

Provided nevertheless, That no person shall be capable of being elected a senator, who is not of the protestant religion, and seized of a freehold estate in his own right of the value of *two hundred pounds*, lying within this state, who is not of the age of thirty years, and who shall not have been an inhabitant of this state for seven years immediately preceding his election ; and at the time thereof he shall be an inhabitant of the district for which he shall be chosen.

THE senate shall have power to adjourn themselves, provided such adjournment do not exceed two days at a time.

THE senate shall appoint their own officers, and determine their own rules of proceedings. And not less than seven members of the senate shall make a quorum for doing business ; and when less than eight senators shall be present, the assent of five at least shall be necessary to render their acts and proceedings valid.

The senate shall be a court with full power and authority to
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hear and determine all impeachments made by the house of representatives, against any officer or officers of the state, for misconduct or mal-administration in their offices. But previous to the trial of any such impeachment, the members of the senate shall respectively be sworn, truly and impartially to try and determine the charge in question according to evidence. Their judgment, however, shall not extend farther than removal from office, disqualification to hold or enjoy any place of honor, trust or profit under this state; but the party so convicted, shall nevertheless be liable to indictment, trial, judgment, and punishment, according to laws of the land.

HOUSE OF REPRESENTATIVES.

THERE shall be in the legislature of this state a representation of the people annually elected and founded upon principles of equality: and in order that such representation may be as equal as circumstances will admit, every town, parish, or place intitled to town privileges, having one hundred and fifty rateable male polls, of twenty-one years of age, and upwards, may elect one representative; if four hundred and fifty rateable polls, may elect two representatives; and so proceeding in that proportion, making three hundred such rateable polls the mean increasing number, for every additional representative.

Such towns, parishes or places as have less than one hundred and fifty rateable polls shall be classed by the general-assembly for the purpose of chusing a representative, and seasonably notified thereof. And in every class formed for the above-mentioned purpose, the first annual meeting shall be held in the town, parish, or place wherein most of the rateable polls reside; and afterwards in that which has the next highest number, and so on annually by rotation, through the several towns, parishes or places, forming the district.

WHENEVER any town, parish, or place intitled to town privileges as aforesaid, shall not have one hundred and fifty rateable polls, and be so situated as to render the classing thereof with any other town, parish, or place very inconvenient, the general-assembly may upon application of a majority of the voters in such town, parish, or place, issue a writ for their electing and sending a representative to the general-court.

THE members of the house of representatives shall be chosen annually in the month of March, and shall be the second branch of the legislature.

ALL persons qualified to vote in the election of senators shall be

be intitled to vote within the town, district, parish, or place where they dwell, in the choice of representatives. Every member of the house of representatives shall be chosen by ballot; and for two years at least next preceding his election, shall have been an inhabitant of this state, shall have an estate within the town, parish, or place which he may be chosen to represent, of the value of *one hundred pounds*, one half of which to be a freehold, whereof he is seized in his own right; shall be at the time of his election, an inhabitant of the town, parish, or place he may be chosen to represent; shall be of the protestant religion, and shall cease to represent such town, parish, or place immediately on his ceasing to be qualified as aforesaid.

THE travel of each representative to the general-assembly, and returning home, once in every session, and no more, shall be at the expence of the state, and the wages for his attendance, at the expence of the town, parish, or places he represents; such members attending seasonably, and not departing without licence. All intermediate vacancies in the house of representatives, may be filled up from time to time, in the same manner as annual elections are made.

THE house of representatives shall be the grand inquest of the state, and all impeachments made by them, shall be heard and tried by the senate.

ALL money bills shall originate in the house of representatives, but the senate may propose or concur with amendments as on other bills.

THE house of representatives shall have power to adjourn themselves, but no longer than two days at a time.

A majority of the members of the house of representatives shall be a quorum for doing business: but when less than two thirds of the representatives elected shall be present, the assent of two thirds of those members shall be necessary to render their acts and proceedings valid.

No member of the house of representatives or senate, shall be arrested or held to bail on mean process, during his going to, returning from, or attendance upon the court.

THE house of representatives shall choose their own speaker, appoint their own officers, and settle the rules of proceedings in their own house. They shall have authority to punish by imprisonment, every person who shall be guilty of disrespect to the house in its presence, by any disorderly and contemptuous behaviour, or by threatening, or ill treating any of its members; or by obstructing its deliberations; every person guilty of a breach of its privileges in making arrests for debt, or by assaulting any member during

ring his attendance at any session ; in assaulting or disturbing any one of its officers in the execution of any order or procedure of the house, in assaulting any witness, or other person, ordered to attend by and during his attendance of the house, or in rescuing any person arrested by order of the house, knowing them to be such. The senate, president and council, shall have the same powers in like cases ; provided that no imprisonment by either, for any offence, exceed ten days.

THE journals of the proceedings of both houses of the general-court, shall be printed and published, immediately after every adjournment, or prorogation ; and upon motion made by any one member, the yeas and nays upon any question, shall be taken and entered in the journals.

EXECUTIVE POWER.

PRESIDENT.

THERE shall be a supreme executive magistrate, who shall be stiled, THE PRESIDENT OF THE STATE OF NEW-HAMPSHIRE ; and whose title shall be HIS EXCELLENCY.

THE PRESIDENT shall be chosen annually ; and no person shall be eligible to this office, unless at the time of his election, he shall have been an inhabitant of this state for seven years next preceding, and unless he shall be of the age of thirty years ; and unless he shall, at the same time, have an estate of the value of *five hundred pounds*, one half of which shall consist of a freehold, in his own right, within the state ; and unless he shall be of the protestant religion.

THOSE persons qualified to vote for senators and representatives, shall within the several towns, parishes or places, where they dwell, at a meeting to be called for that purpose, some day in the month of March annually, give in their votes for a president to the selectmen, who shall preside at such meeting, and the clerk in the presence and with the assistance of the selectmen, shall in open meeting sort and count the votes, and form a list of the persons voted for, with the number of votes for each person against his name, and shall make a fair record of the same in the town books, and a public declaration thereof in the said meeting ; and shall in the presence of said inhabitants, seal up a copy of said list attested by him and the selectmen, and transmit the same to the sheriff of the county, thirty days at least before the first Wednesday of June, or shall cause returns of the same to be made to the office of the secretary of the state, seventeen days at least, before said day, who shall lay the same before the senate
and

and house of representatives on the first Wednesday of June, to be by them examined : and in case of an election by a majority of votes through the state, the choice shall be by them declared, and published ; but if no person shall have a majority of votes, the house of representatives shall by ballot elect two out of the four persons who had the highest number of votes, if so many shall have been voted for ; but if otherwise, out of the number voted for ; and make return to the senate of the two persons so elected, on which the senate shall proceed by ballot to elect one of them who shall be declared president.

THE president of the state shall preside in the senate, shall have a vote equal with any other member ; and shall also have a casting vote in case of a tie.

THE president with advice of council, shall have full power and authority in the recess of the general court, to prorogue the same from time to time, not exceeding ninety days in any one recess of said court ; and during the session of said court, to adjourn or prorogue it to any time the two houses may desire, and to call it together sooner than the time to which it may be adjourned, or prorogued, if the welfare of the state should require the same.

IN cases of disagreement between the two houses, with regard to the time of adjournment, or prorogation, the president, with advice of council, shall have a right to adjourn or prorogue the general court, not exceeding ninety days, at any one time, as he may determine the public good may require. And he shall dissolve the same seven days before the said first Wednesday of June. And in case of any infectious distemper prevailing in the place where the said court at any time is to convene, or any other cause whereby dangers may arise to the healths or lives of the members from their attendance, the president may direct the session to be holden at some other the most convenient place within the state.

THE president of this state for the time being, shall be commander in chief of the army and navy, and all the military forces of the state, by sea and land ; and shall have full power by himself, or by any chief commander, or other officer, or officers, from time to time, to train, instruct, exercise and govern the militia and navy ; and for the special defence and safety of this state to assemble in martial array, and put in warlike posture, the inhabitants thereof, and to lead and conduct them, and with them to encounter, expulse, repel, resist and pursue by force of arms, as well by sea as by land, within and without the limits of this state ; and also to kill, slay, destroy, if necessary, and conquer by all fitting ways, enterprize

enterprize and means, all and every such person and persons as shall, at any time hereafter, in a hostile manner, attempt or enterprize the destruction, invasion, detriment, or annoyance of this state; and to use and exercise over the army and navy, and over the militia in actual service, the law-martial in time of war, invasion, and also in rebellion, declared by the legislature to exist, as occasion shall necessarily require: and surprize by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall in a hostile manner invade, or attempt the invading, conquering, or annoying this state: and in fine, the president hereby is entrusted with all other powers incident to the office of captain-general and commander in chief, and admiral, to be exercised agreeably to the rules and regulations of the constitution, and the laws of the land: provided that the president shall not at any time hereafter, by virtue of any power by this constitution granted, or hereafter to be granted to him by the legislature, transport any of the inhabitants of this state, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the general court, nor grant commissions for exercising the law-martial in any case, without the advice and consent of the council.

THE power of pardoning offences, except such as persons may be convicted of before the senate by impeachment of the house, shall be in the president by and with the advice of the council: but no charter of pardon granted by the president with advice of council, before conviction, shall avail the party pleading the same, notwithstanding any general or particular expressions contained therein, descriptive of the offence or offences intended to be pardoned.

ALL judicial officers, the attorney-general, solicitor-general, all sheriffs, coroners, registers of probate, and all officers of the navy, and general and field-officers of the militia, shall be nominated and appointed by the president and council; and every such nomination shall be made at least seven days prior to such appointment, and no appointment shall take place, unless three of the council agree thereto. The captains and subalterns in the respective regiments shall be nominated and recommended by the field-officers to the president, who is to issue their commissions immediately on receipt of such recommendation.

No officer duly commissioned to command in the militia, shall be removed from his office, but by the address of both houses to the president, or by fair trial in court-martial, pursuant to the laws of the state for the time being.

THE commanding officers of the regiments shall appoint their adjutants

adjutants and quarter-masters; the brigadiers their brigade-majors, the major-generals their aids; the captains and subalterns their non-commissioned officers.

THE president and council, shall appoint all officers of the continental army, whom by the confederation of the United States it is provided that this state shall appoint, as also all officers of forts and garrisons.

THE division of the militia into brigades, regiments and companies, made in pursuance of the militia laws now in force, shall be considered as the proper division of the militia of this state, until the same shall be altered by some future law.

No monies shall be issued out of the treasury of this state, and disposed of (except such sums as may be appropriated for the redemption of bills of credit or treasurer's notes, or for the payment of interest arising thereon) but by warrant under the hand of the president for the time being, by and with the advice and consent of the council, for the necessary support and defence of this state, and for the necessary protection and preservation of the inhabitants thereof, agreeably to the acts and resolves of the general court.

ALL public boards, the commissary-general, all superintending officers of public magazines and stores, belonging to this state, and all commanding officers of forts and garrisons within the same, shall once in every three months, officially, and without requisition, and at other times, when required by the president, deliver to him an account of all goods, stores, provisions, ammunition, cannon, with their appendages, and small arms, with their accoutrements, and of all other public property under their care respectively; distinguishing the quantity, and kind of each, as particularly as may be; together with the condition of such forts and garrisons: and the commanding officer shall exhibit to the president, when required by him, true and exact plans of such forts, and of the land and sea, or harbour or harbours adjacent.

THE president and council shall be compensated for their services from time to time by such grants as the general court shall think reasonable.

PERMANENT and honorable salaries shall be established by law for the justices of the superior court.

WHENEVER the chair of the president shall be vacant, by reason of his death, absence from the state, or otherwise, the senior senator for the time being, shall, during such vacancy, have and exercise all the powers and authorities which by this constitution the president is vested with when personally present.

C O U N C I L.

ANNUALLY, on the first meeting of the general court, two members

members of the senate and three from the house of representatives, shall be chosen by joint ballot of both houses as a council, for advising the president in the executive part of government, whom the president for the time being, shall have full power and authority to convene from time to time, at his discretion, and the president with the counsellors, or three of them at least, shall and may from time to time hold and keep a council, for ordering and directing the affairs of the state according to the laws of the land.

THE qualifications for counsellors, shall be the same as those required for senators. The members of the council shall not intermeddle with the making or trying impeachments, but shall themselves be impeachable by the house, and triable by the senate for mal-conduct.

THE resolutions and advice of the council shall be recorded in a register, and signed by the members present, and this record may be called for at any time, by either house of the legislature, and any member of the council may enter his opinion contrary to the resolution of the majority.

AND whereas the elections appointed to be made by this constitution on the first Wednesday of June annually, by the two houses of the legislature, may not be completed on that day, the said elections may be adjourned from day to day until the same shall be completed. And the order of the elections shall be as follows: the vacancies in the senate, if any, shall be first filled up; the president shall then be elected, provided there should be no choice of him by the people: and afterwards the two houses, shall proceed to the election of the council.

SECRETARY, TREASURER,

COMMISSARY - GENERAL, &c.

THE Secretary, treasurer, and commissary-general, shall be chosen by joint ballot of the senators and representatives assembled in one room.

THE records of the state shall be kept in the office of the secretary, who may appoint his deputies, for whose conduct he shall be answerable, and he shall attend the president and council, the senate and representatives, in person or by deputy, as they may require.

COUNTY - TREASURER, &c.

THE County-treasurers, and registers of deeds shall be elected by the inhabitants of the several towns, in the several counties in

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the state, according to the method now practised, and the present laws of the state: and before they enter upon the business of their offices, shall be respectively sworn faithfully to discharge the duties thereof, and shall severally give bond with sufficient sureties, in a reasonable sum for the use of the county, for the punctual performance of their respective trusts.

JUDICIARY POWER.

THE tenure, that all commission officers shall have by law in their offices, shall be expressed in their respective commissions. All judicial officers, duly appointed, commissioned and sworn, shall hold their offices during good behaviour, excepting those concerning whom there is a different provision made in this constitution: *Provided nevertheless*, the president, with consent of council, may remove them upon the address of both houses of the legislature.

EACH branch of the legislature, as well as the president and council, shall have authority to require the opinions of the justices of the superior court upon important questions of law, and upon solemn occasions.

IN order that the people may not suffer from the long continuance in place of any justice of the peace, who shall fail in discharging the important duties of his office with ability and fidelity, all commissions of justices of the peace shall become void, at the expiration of five years from their respective dates; and upon the expiration of any commission, the same may, if necessary, be renewed, or another person appointed, as shall most conduce to the well-being of the state.

THE judges of probate of wills, and for granting letters of administration, shall hold their courts at such place or places, on such fixed days, as the convenience of the people may require. And the legislature shall, from time to time, hereafter appoint such times and places, until which appointments, the said courts shall be holden at the times and places which the respective judges shall direct.

ALL causes of marriage, divorce and alimony, and all appeals from the respective judges of probate, shall be heard and tried by the superior court, until the legislature shall, by law make other provision.

CLERKS OF COURTS.

THE clerks of the superior court of judicature, inferior courts of common pleas, and general sessions of the peace, shall be appointed

pointed by the respective courts during pleasure. And to prevent any fraud or unfairness in the entries and records of said courts, no such clerk shall be of counsel in any cause in the court of which he is clerk, nor shall he fill any writ in any civil action whatsoever.

DELEGATES TO CONGRESS.

THE delegates of this state to the Congress of the United States, shall some time between the first Wednesday of June, and the first Wednesday of September annually, be elected by the senate and house of representatives in their separate branches ; to serve in Congress for one year, to commence on the first Monday in November then next ensuing. They shall have commissions under the hand of the president, and the great seal of the state ; but may be recalled at any time within the year, and others chosen and commissioned, in the same manner, in their stead : and they shall have the same qualifications, in all respects, as by this constitution are required for the president.

No person shall be capable of being a delegate to Congress, for more than three years in any term of six years ; nor shall any person being a delegate, be capable of holding any office under the United States, for which he, or any other for his benefit, receives any salary, or emolument of any kind.

ENCOURAGEMENT OF LITERATURE, &c.

KNOWLEDGE, and learning, generally diffused through a community, being essential to the preservation of a free government ; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end ; it shall be the duty of the legislators and the magistrates, in all future periods of this government to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures and natural history of the country ; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people.

OATH and subscriptions ; exclusion from offices ; commissions ; writs ; confirmation of laws ; habeas corpus ; the enacting style ; continuance of officers ; provision for a future revision of the constitution, &c.

ANY

ANY person chosen president, counsellor, senator, or representative, military or civil officer, (town officers excepted,) accepting the trust, shall, before he proceeds to execute the duties of his office, make and subscribe the following declaration, viz.

I, A. B. do truly and sincerely acknowledge, profess, testify and declare, that the state of New-Hampshire is, and of right ought to be, a free, sovereign and independent state; and do swear that I will bear faith, and true allegiance to the same, and that I will endeavor to defend it against all treacherous conspiracies and hostile attempts whatever: and I do further testify and declare, that no man or body of men, hath or can have, a right to absolve me from the obligation of this oath, declaration or affirmation; and that I do make this acknowledgment, profession, testimony, and declaration, honestly and truly, according to the common acceptance of the foregoing words, without any equivocation, mental evasion, or secret reservation whatever.

So help me. G O D.

I, A. B. do solemnly and sincerely swear and affirm, that I will faithfully and impartially discharge and perform all the duties incumbent on me as according to the best of my abilities, agreeably to the rules and regulations of this constitution, and the laws of the state of New-Hampshire. So help me G O D.

Provided always, When any person chosen or appointed as aforesaid, shall be of the denomination called quakers, or shall be scrupulous of swearing, and shall decline taking the said oaths, such shall take and subscribe them omitting the word "*swear,*" and likewise the words "*So help me God,*" subjoined instead thereof, *This I do under the pains and penalties of perjury.*

AND the oaths or affirmations shall be taken and subscribed by the president before the senior senator present, in the presence of the two houses of assembly; and by the senate and representatives first elected under this constitution, before the president and council for the time being; and by the residue of the officers aforesaid, before such persons, and in such manner as from time to time shall be prescribed by the legislature.

ALL commissions shall be in the name of the state of New-Hampshire, signed by the president, and attested by the secretary, or his deputy, and shall have the great seal of the state affixed thereto.

ALL writs issuing out of the clerk's office in any of the courts of law, shall be in the name of the state of New-Hampshire; shall be under the seal of the court whence they issue, and bear test of the chief, first, or senior justice of the court; but when such justice shall be interested, then the writ shall bear test of some other justice of the court, to which the same shall be returnable; and be signed by the clerk of such court.

ALL

ALL indictments, presentments and informations shall conclude against the peace and dignity of the state.

THE estates of such persons as may destroy their own lives, shall not for that offence be forfeited, but descend or ascend in the same manner, as if such persons had died in a natural way. Nor shall any article which shall accidentally occasion the death of any person, be henceforth deemed a deodand, or in any wise forfeited on account of such misfortune.

ALL the laws which have heretofore been adopted, used and approved, in the province, colony, or state of New-Hampshire, and usually practised on in the courts of law, shall remain and be in full force, until altered and repealed by the legislature ; such parts thereof only excepted, as are repugnant to the rights and liberties contained in this constitution : Provided that nothing herein contained, when compared with the twenty-third article in the bill of rights, shall be construed to affect the laws already made respecting the persons or estates of absentees.

THE privilege and benefit of the habeas corpus, shall be enjoyed in this state, in the most free, easy, cheap, expeditious, and ample manner, and shall not be suspended by the legislature, except upon the most urgent and pressing occasions, and for a time not exceeding three months.

THE enacting stile in making and passing acts, statutes and laws, shall be—*Be it enacted by the senate and house of representatives, in general court convened.*

No president or judge of the superior court, shall hold any office or place under the authority of this state, except such as by this constitution they are admitted to hold, saving that the judges of the said court may hold the offices of justices of the peace throughout the state ; nor shall they hold any place or office, or receive any pension or salary, from any other state, government, or power whatever.

No person shall be capable of exercising at the same time, more than one of the following offices within this state, viz. Judge of probate, sheriff, register of deeds ; and never more than two offices of profit, which may be held by appointment of the president, or president and council, or senate and house of representatives, or superior or inferior courts ; military offices, and offices of justices of the peace, excepted.

No person holding the office of judge of the superior court, secretary, treasurer of the state, judge of probate, attorney-general, commissary-general, judge of the maritime court, or judge of the court of admiralty, military officers receiving pay from the continent or this state, excepting officers of the militia occasionally called

called forth on an emergency ; judge of the inferior court of common pleas, register of deeds, president, professor or instructor of any college, sheriff, or officer of the customs, including naval-officers, shall at the same time have a seat in the senate or house of representatives, or council ; but their being chosen or appointed to, and accepting the same, shall operate as a resignation of their seat in the senate, or house of representatives, or council ; and the place so vacated shall be filled up.

No person shall ever be admitted to hold a seat in the legislature, or any office of trust or importance under this government, who in the due course of law, has been convicted of bribery or corruption, in obtaining an election or appointment.

In all cases where sums of money are mentioned in this constitution, the value thereof shall be computed in silver, at *six shillings and eight pence* per ounce.

To the end that there may be no failure of justice or danger arise to this state from a change of the form of government, all civil and military officers, holding commissions under the government and people of New-Hampshire, and other officers of the said government and people, at the time this constitution shall take effect, shall hold, exercise and enjoy all the powers and authorities to them granted and committed, until other persons shall be appointed in their stead. All courts of law in the business of their respective departments, and the executive, and legislative bodies and persons, shall continue in full force, enjoyment and exercise of all their trusts and employments, until the general court, and the supreme and other executive officers under this constitution, are designated, and invested with their respective trusts, powers and authority.

THIS form of government shall be enrolled on parchment, and deposited in the secretary's office, and be a part of the laws of the land, and printed copies thereof shall be prefixed to the books containing the laws of this state, in all future editions thereof.

To preserve an effectual adherence to the principles of the constitution, and to correct any violations thereof, as well as to make such alterations therein, as from experience may be found necessary, the general court shall at the expiration of seven years from the time this constitution shall take effect, issue precepts, or direct them to be issued from the secretary's office, to the several towns and incorporated places, to elect delegates to meet in convention for the purposes aforesaid : the said delegates to be chosen in the same manner, and proportioned as the representatives to the general assembly ; provided that no alteration shall be made in this constitution before the same shall be laid before the towns and unincorporated places, and approved by two thirds of the qualified voters present, and voting upon the question. »

IN

IN CONVENTION,

HELD AT CONCORD,

THE THIRTY-FIRST DAY OF OCTOBER,

1783.

THE Returns from the several towns being examined, and it appearing that the foregoing BILL OF RIGHTS AND FORM OF GOVERNMENT, were approved of by the PEOPLE ; the same are hereby agreed on and established by the DELEGATES OF THE PEOPLE, and declared to be the CIVIL CONSTITUTION FOR THE STATE OF NEW-HAMPSHIRE, to take place on the first Wednesday of June, 1784 ; and that in the mean time the General Court under the present government, make all the necessary arrangements for introducing this Constitution, at that time, and in the manner therein described.

NATHANIEL FOLSOM, President, P. T.

Attest.

J. M. SEWALL, Secretary.





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PERPETUAL
STATUTES
OF
NEW-HAMPSHIRE.

COURTS, AND MATTERS THERETO RELATING.

AN ACT for establishing courts of law for the administration of justice within this colony. Passed July 5. 1776.

WHEREAS the cruel and unnatural war commenced and prosecuted by Great-Britain against the United Colonies, hath rendered it necessary for the protection and security of the lives and interests of the inhabitants of this colony, to assume and establish a new form of government therein, for the administration whereof, it is equally necessary and expedient to establish courts of justice : Preamble.

Therefore,

BE it enacted by the council and house of representatives, in general court assembled, That instead of the several courts of judicature heretofore established and holden by the laws of this colony, under the former government thereof, in the several counties therein, shall be and hereby are established to be holden : one superior court of judicature, to have jurisdiction and authority throughout this colony, to be holden and kept at the times and places herein after appointed, by four justices to be appointed and commissioned thereto, by the council and house of representatives of said colony, for the time being ; any three of whom to make a quorum. Also, an inferior court of common pleas, within each respective county in this colony, Super. court appointed.

An Inf. court in each county appointed.

Court of gen.
sessions of the
peace in each
county ap-
pointed.

colony, to be holden by four justices to be appointed and commissioned thereto in manner aforesaid, any three of whom to make a quorum; to be holden at such times and places, as are by this act appointed. And one court of general quarter sessions of the peace, within and for each respective county, to be holden by the justices of the peace for such county, or so many of them as shall be limited by the commission of the peace to make a quorum, to be holden at such times and places as are by this act appointed. All which courts shall respectively hold and exercise like jurisdiction and authority within their respective counties, in all matters and causes arising within such counties, as the superior court of judicature, inferior court of common pleas, and court of general sessions of the peace, heretofore respectively held and exercised within this colony, or by law ought to hold and exercise.

Civil officers
to have the
same power
as usual.

The justices of the inferior courts within this colony, all judges of probate, justices of the peace, sheriffs, registers, or recorders of deeds, registers of probate, and all civil officers shall hold and exercise within their respective counties, the same power and authority as were heretofore held and exercised by such officers respectively, in the several counties in this colony, before the establishment of the present government, or by law ought to be held and exercised.

How process-
es shall be di-
rected.

How transi-
tory actions
shall be bro't.

All processes issuing out of any court of record in this colony may be directed to and executed by the officer or officers of any other county within their respective counties, as well as by the officer or officers of the county where such process issued. And all transitory actions wherein both parties are inhabitants of this colony may be commenced in the county wherein either of the parties to the suit may be inhabitant, and not elsewhere, within this colony. But if any person or persons who is an inhabitant of this colony, or otherwise, shall commence any action or actions upon any endorsed note or notes, bill or bills of exchange against any defendant or defendants, in any court in this colony, other than that county wherein such defendant or defendants live, the court before whom the same shall be brought or tried, shall tax in any suit for the plaintiff no more for travel than twenty miles; except in such cases where the suit and benefit thereof, do *bona*

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fide belong to the person or persons who bring the same, and who actually travel to the court to which such suit shall be brought.

And the times and places for holding the said courts shall be as follows, viz. The superior court shall be holden at Portsmouth on the first Tuesday of March, and at Exeter the first Tuesday of September annually, for the county of Rockingham. And at Amherst, for the county of Hillsborough, on the fourth Tuesday of September, annually. And at Keene, for the county of Cheshire, the first Tuesday of October, annually. And at Dover, for the county of Strafford, the last Tuesday of May annually. And for the county of Grafton, annually, on the third Tuesday of October; at Haverhill and Plymouth, alternately. The inferior courts for the county of Rockingham, shall be held at Portsmouth, the first Tuesdays of November and March; and at Exeter, the last Tuesdays of February and July, annually. And the courts of general sessions of the peace, for the county of Rockingham, at Portsmouth, the second Tuesdays of November and May; and at Exeter, the first Tuesdays of February and August, annually. The inferior courts of common pleas for the county of Hillsborough, shall be holden at Amherst, the first Tuesdays of October, January, April and July, annually. And the courts of the general sessions of the peace, for the county of Hillsborough, shall be holden at Amherst, on the first Thursdays next after the first Tuesdays in October, January, April and July, annually. And the inferior courts of common pleas for the county of Cheshire, shall be holden at Keene, the second Tuesdays of October and July; and at Charlestown, the second Tuesdays of January and April, annually. And the courts of general sessions of the peace, for the county of Cheshire, shall be holden at Keene, on the Thursdays next after the second Tuesdays in October and July; and at Charlestown, on the Thursdays next after the second Tuesdays of January and April, annually. The inferior courts of common pleas for the county of Strafford, shall be holden at Dover, on the first Thursdays next following the second Tuesdays of January, July and October; and at Durham, on the first Thursday next following the second Tuesdays of April, annually. That the courts of general sessions of the peace,

Times and places of the several courts being held:

peace, for the county of Strafford, shall be holden at Dover, the second Tuesdays of January, July and October ; and at Durham, the second Tuesdays of April, annually. And the inferior courts of common pleas, for the county of Grafton, shall be held at Haverhill, the first Thursdays next following the third Tuesdays of August ; and at Plymouth, the first Thursdays next following the third Tuesdays of February, annually. And the courts of general sessions of the peace for the county of Grafton, shall be held at Haverhill, on the third Tuesdays of August ; and at Plymouth, the third Tuesdays of February, annually.

Matters unfinished by the former courts to be taken up and completed by the new ones.

And be it further enacted by the authority aforesaid, That all writs, processses, executions, and other matters in law, which were returnable to, or depending in any of the said courts in each of the respective counties in this colony, at the time of the establishment of the present government, or that are now pending therein, shall be returned to, and sustained by the respective courts hereby established, (before whom by law the said writs, processses and matters, are cognizable,) at the first term of the several courts in their respective counties. And all judgments, not perfected shall be made up, and alias's and pluries shall issue upon former executions which shall be returned not satisfied (as the nature of the case may require) in such manner, and as fully and effectually as though the courts of law, had not been discontinued ; any law, usage or custom, to the contrary, notwithstanding.

Passed Nov.
27, 1778.

Preamble.

AN A C T in addition to an act, entitled, an act for establishing courts of law for the administration of justice within this colony.

WHEREAS in and by said act, it is enacted, that there shall be holden one superior court of judicature, at Amherst, for the county of Hillsborough, on the fourth Tuesday of September, annually ; and one superior court of judicature at Dover, for the county of Strafford, on the last Tuesday of May, annually : *And whereas* it is found to be expedient that two superior courts of judicature should be holden in each of said counties, annually:

BE it therefore enacted by the council and house of representatives in general court assembled, and by the

the authority of the same, That there be and hereby is established one superior court of judicature, to be holden at Amherst, for the county of Hillsborough, on the last Tuesday of February, annually ; and one superior court of judicature to be holden at Dover, for the county of Strafford, on the third Tuesday of November annually, in addition to those already established by the act aforesaid, to be therein holden.

And be it further enacted, That all appeals, recognizances, writs, and other matters whatsoever, which have been made or are returnable to the said superior court of judicature, to be holden at said Amherst, on the fourth Tuesday of September next, shall be taken up and sustained at the said superior court of judicature to be holden at said Amherst, on the last Tuesday of February next.

AN ACT for the appointment of special justices.

WHEREAS it sometimes happens, that some of the standing justices of the superior or inferior court, in this state, are indisposed, interested, or otherwise incompetent to try causes, which may come, or be, before them ; in which cases, special justices are necessary to expedite the due administration of justice :

Passed June 26, 1786.

Preamble.

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That in either of the cases above-mentioned, upon the application and request of either party interested in the suit, on the suggestion of the justices of the court before whom such suit is pending, or may come, his excellency the president, with advice of council, be, and hereby is, authorised and empowered, to appoint a special justice, or justices, as occasion may require, who shall be duly commissioned and sworn, and shall take cognizance of, and try, all causes which either of the standing justices are incompetent to try. And the said commission shall be in force, until the cause or causes, before said special justice or justices, are determined, and no longer ; any law, custom, or usage, to the contrary, notwithstanding.

President empowered to appoint special justices.

AN

Passed Jan. AN A C T for extending the powers and authority
12, 1787. of the maritime court in this state.

Preamble.

WHEREAS it will conduce to the improvement of the commerce and navigation of this state, that seamen whether natives or strangers be encouraged, and have a speedy and easy remedy for the recovery of their wages ; and that there should be an easy and expeditious mode of trial of causes originating from, or touching matters arising on the high seas ; the advantages and necessity of which, have been heretofore experienced :

Therefore,

Judges to issue process for seamen's wages.

BE it enacted by the senate and house of representatives, in general-court convened, That the judge of the maritime court of this state, shall have jurisdiction, and is hereby empowered, to issue process and take cognizance of all such suits as may be brought before the same court for seamen's wages, and to hear, try, and determine the same, and give judgment therein, and enforce the decree or sentence by execution.

And the process in such cases, shall be by libel, or otherwise as heretofore was accustomed and practised. And the mode of trial, examination, and proof, of the decree, or judgment, and execution shall be conducted, had, made and done, in the same manner, as were heretofore used and accustomed in the court of vice-admiralty in *New-Hampshire*.

And the judge of said maritime court, shall have like power, jurisdiction and authority as aforesaid, in all suits and causes, arising from matters and things taking place on the high seas or touching the same, which heretofore were within the jurisdiction of the said court of vice-admiralty.

Marshal to execute all processess.

And the marshal, or proper officer of said maritime court, shall have power, and he is hereby required to execute all lawful processess issuing from the same court ; and for every default or neglect of his duty herein shall be liable to make satisfaction to the party injured, and to be punished therefor, as hath heretofore been practised in the cases aforesaid.

Liberty to appeal if more than 30l.

And be it further enacted, that in all causes tried before said court, excepting for maritime wages (the decree concerning which shall be final) if the value of the matter in controversy shall exceed the sum of *thirty pounds*, either party dissatisfied with the decree, judgment

ment or sentence of said court, shall have liberty to appeal therefrom to the superior court next to be holden in the same county ; such party appealing, recognizing or stipulating in a reasonable sum with sufficient sureties, to prosecute such appeal and abide the sentence of the said superior court therein.

And be it further enacted, by the authority aforesaid, that if the judge of the said maritime court, shall at any time exceed the powers and authorities herein given, and hold plea of any cause or matter cognizable by the common law courts only, and to which the jurisdiction of said court doth not extend, upon suggestion and proof thereof made to the justices of the superior court of judicature in term time, or to any one of them in the vacation between the terms, a writ of prohibition may and shall be granted to stay the proceedings in said maritime court, until the justices of the said superior court shall further examine into and try such suggestion, and if on trial, the same be found true, the prohibition shall be considered as absolute, and the said maritime court shall never proceed further in such cause, but if the suggestion shall not be proved and supported on trial, the said justices shall decree, that the cause be returned to the said maritime court for trial, and shall issue a writ of consultation to that purpose, and the judge of said maritime court shall proceed therein as if no prohibition had been issued.

If the judge exceed his powers a writ of prohibition may be granted.

And be it further enacted, by the authority aforesaid, that *John Parker, Esq.* hereby is appointed marshal of said court with all the powers which the marshal of the court of vice-admiralty heretofore had ; any custom or law, to the contrary, notwithstanding.

Passed Feb. 17, 1785.

AN ACT to alter and establish the times and places of holding the several courts of judicature within this state.

WHEREAS the times and places of holding the superior court of judicature, inferior courts of common pleas, and courts of general sessions of the peace, within the several counties of this state, are found inconvenient, and some alteration therein is become necessary :

Preamble.

BE it therefore enacted by the senate and house of representatives in general court convened, and it is hereby

Enacting clause.

hereby enacted, That the times and places of holding the superior court of judicature, inferior courts of common pleas, and courts of general sessions of the peace, shall be, and hereby are altered and established as follows, namely, the superior court of judicature, shall be holden at Dover, for the county of Strafford, on the third Tuesday of April, and the second Tuesday of September, annually : and for the county of Rockingham, at Portsmouth, on the fourth Tuesday of April ; and at Exeter, on the third Tuesday of September, annually : and for the county of Hillsborough, at Amherst, on the second Tuesday of May, and the first Tuesday of October, annually : and for the county of Cheshire, at Charlestown, on the third Tuesday of May, and at Keene, on the second Tuesday of October, annually : and for the county of Grafton, at Plymouth, on the fourth Tuesday of May, and at Haverhill, on the third Tuesday of October, annually.

Inf. court
Rockingham

The inferior court of common pleas, for the county of Rockingham, shall be holden at Portsmouth, on the first Tuesdays of February and June ; and at Exeter, on the second Tuesday of August, and first Tuesday of November, annually.

Inf. court
Strafford.

The inferior court of common pleas, for the county of Strafford, shall be holden at Dover, on the third Tuesdays of February, June and November ; and at Durham, on the third Tuesday of August, annually.

Inf. court
Hillsborough

The inferior court of common pleas, for the county of Hillsborough, shall be holden at Amherst, on the second Tuesdays of March, June and December, and the first Tuesday of September, annually.

Inf. court
Cheshire.

The inferior court of common pleas for the county of Cheshire, shall be holden at Keene, the third Tuesdays of March and June ; and at Charlestown, the second Tuesday of September, and the third Tuesday of December, annually.

Inf. court
Grafton.

The inferior court of common pleas, for the county of Grafton, shall be holden at Plymouth, on the first Tuesdays of September and December ; and at Haverhill, on the first Tuesdays of March and June, annually.

Gen. sessions
Rockingham

The court of general sessions of the peace, for the county of Rockingham, shall be holden at Portsmouth, on the second Tuesdays of February and June ; and at Exeter, on the fourth Tuesday of August, and second Tuesday of November, annually.

The

The court of general sessions of the peace, for the county of Strafford, shall be holden at Dover, on the Thursdays next following the third Tuesdays of February, June and November; and at Durham, on the Thursday next following the third Tuesday of August, annually. Gen. sessions
Strafford.

The court of general sessions of the peace, for the county of Hillsborough, shall be holden at Amherst, on the Thursdays next following the second Tuesdays of March, June and December, and the first Tuesday of September, annually. Gen. sessions
Hillsborough

The court of general sessions of the peace, for the county of Cheshire, shall be holden at Keene, on the Thursdays next following the third Tuesdays of March and June; and at Charlestown, the Thursdays next following the second Tuesday of September, and third Tuesday of December, annually. Gen. sessions
Cheshire.

The court of general sessions of the peace, for the county of Grafton, shall be holden at Plymouth, on the Thursdays next following the first Tuesdays of September and December; and at Haverhill, on the Thursdays next following the first Tuesdays on March and June, annually. Gen. sessions
Grafton.

And whereas, the inferior courts of common pleas, and courts of general sessions of the peace, have lately been held in the counties of Grafton and Hillsborough, respectively :

BE it therefore enacted by the authority aforesaid, Suspending
clause.
That the effect and operation of this act shall be, and hereby is suspended in those two counties, until the fourteenth day of March next : and all writs, executions, warrants, venuries, recognizances, appeals, actions, indictments and process of every kind, returnable to, or sustainable at, the next superior court of judicature, inferior court of common pleas, or court of general sessions of the peace, in every county of this state, respectively, as now by law established, shall be returned to, and sustained by, the next superior court of judicature, inferior court of common pleas, or court of general sessions of the peace, respectively established by this act ; whereof all persons are to take notice and govern themselves accordingly.

Passed March
3, 1786.

Preamble.

Time of hold-
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tered.

Writs, &c. to
be return'd to
said Court.

Passed June
23, 1787.

Preamble.

Enacting
clause.

AN ACT for altering the time of holding the inferior court of common pleas, holden by law, on the first Tuesday of June, annually, at Portsmouth, in and for the county of Rockingham.

WHEREAS the time appointed by law for holding said inferior court, has been found to be very inconvenient for that purpose :

Therefore,

BE it enacted by the senate and house of representatives, in general court convened, and by the authority of the same, That the said inferior court of common pleas, holden by law, at Portsmouth, in and for the county of Rockingham, on the first Tuesday of June, annually, shall, for ever hereafter, be holden at said Portsmouth, on the fourth Tuesday of May, annually ; any law, usage or custom to the contrary, in any wise, notwithstanding.

And be it further enacted, That all writs, executions, recognizances, appeals, actions and process of every kind, returnable to, or sustainable at said inferior court, holden, by law, on said first Tuesday of June next, shall be returned to, and sustained by said court, on the fourth Tuesday of May next.

AN ACT for altering the time of the sitting of the inferior court of common pleas, and the court of general sessions of the peace, at Charlestown, in the county of Cheshire.

WHEREAS the time by law established, for holding the inferior court of common pleas at Charlestown, in the county of Cheshire, on the second Tuesday in September, annually, and the court of general sessions, on the Thursday next following, are found very inconvenient, and some alterations necessary :

Therefore,

BE it enacted by the senate and house of representatives in general-court convened, That the inferior court of common pleas, by law to be holden at Charlestown, in the county of Cheshire, on the second Tuesday in September, hereafter shall be holden at said Charlestown on the fourth Tuesday in September annually ; and the court of general sessions of the peace, by law to be holden

holden on the Thursday next following the second Tuesday in September annually, at Charlestown, shall be hereafter holden at said Charlestown, on the Thursday next following the fourth Tuesday in September, annually : And all writs, appeals, actions, recognizances and processses depending in, or returnable to said courts, respectively, shall be taken up, sustained and acted upon in like manner as if no alteration in the holding of said courts, had taken place; any law, usage or custom, to the contrary, notwithstanding.

AN ACT directing and regulating the appointment and choice of petit-jurors.

Passed June 17, 1785.

WHEREAS it is of the utmost importance, that impartial jurors should be appointed to serve in the several courts of justice in this state :

Preamble.

BE it enacted by the senate and house of representatives in general court convened, That the selectmen of each town, and of each parish (having the privilege and power of towns) within this state, shall take a list of the names of all persons living within their respective limits, qualified, in the opinion of the selectmen, to serve as petit-jurors ; each of whom to have an estate of freehold of *forty shillings* per annum, or other estate to the value of *fifty pounds* ; and shall chuse out of such list, one third part of the number of the names contained therein, of such persons as they shall judge most suitable to serve as jurors at the superior court, and shall write their names on separate pieces of paper, and put them into a box, to be by said selectmen provided for that purpose ; and the remainder of the names in such list, to be written as aforesaid, and put into another box, to be so provided ; and the persons whose names shall be so put in the last-mentioned box, shall serve on the petit-jury at the inferior court of common pleas, and court of general sessions of the peace ; which boxes shall be delivered to the town or parish clerk, to be by him kept under lock.

The selectmen of each town to make lists of the names of persons qualified to serve on the petit-jury.

And be it further enacted, That the venire facias for The *venire facias*, how
said jurors, shall be issued by the clerks of the respec-
tive courts aforesaid, thirty days, at least, before the
day of the sitting of the court to which it is returnable ;
To be done
and thirty days,

at least, before the sitting of the court.

Method of appointing them.

Who may be excused.

The names of those who serve to be entered on the papers, &c.

None to serve oftener than once in three years.

Lists to be regulated once a year.

and shall be directed to the clerk of the town or parish, requiring him to cause so many persons to be appointed and returned, of those duly qualified, within the town or parish of which he is clerk, as shall be mentioned in the *venire*, and as shall be ordered by the justices of said courts, respectively; who shall thereupon, immediately, notify a town or parish meeting, according to the customary method of calling such meetings, within such town or parish, respectively, to be held, at least, six days before the sitting of the court to which the *venire* is returnable. And that such appointment of jurymen may be fairly and impartially transacted, the town or parish clerk, or in case of his absence or sickness, one or more of the selectmen, shall carry into the meeting, the proper box, locked, which shall be unlocked there; and the town or parish clerk, or a selectman, attending as aforesaid, shall draw out of the said box, before all the persons assembled, so many of the papers in said box, as there are jurors required by the *venire*; and the persons whose names shall be so drawn out of the box, shall serve accordingly: excepting any, whose names shall be drawn out, shall be then sick, or any other ways unable to serve, in the judgment of those upon that occasion assembled; in which case their names shall be returned into the box, and others drawn in their stead. And that the same persons may not serve too often, the clerk or selectmen, who shall draw out the names, as aforesaid, of such as shall be returned to serve as jurors, shall enter on the back of the paper, on which such names shall be written, the time when such draught shall be made, and return the same into the box again. And no person shall be obliged to serve as a juror, (although his name shall be drawn as aforesaid) oftener than once in three years. And for the more orderly proceeding at such meeting, the qualified voters in town affairs, who shall be present, may and shall first proceed to chuse a suitable person, then present, to be moderator of the meeting, and to govern and regulate the business of such meeting. And, until a moderator shall be so chosen, the town clerk, or, in case of his absence as aforesaid, a selectman shall govern the said meeting. And the selectmen aforesaid, shall, once every year, regulate the said lists, by adding thereto any new names of persons becoming qualified, since

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since the last regulation ; and by filling up the vacancies made by death, or other disability, in the said boxes : and also, by transferring the names from one box to the other, as there may be occasion, by the addition of young men's names to the list, or otherways.

And when any person shall be appointed to serve as a juror, in manner aforesaid, the town or parish clerk shall send a notification thereof, in writing, by the hand of a constable, to the juror, which shall be delivered to him, or left at his dwelling-house, at least four days before the day of the Court's sitting, at which he is to serve ; which notification shall set forth the time when such juror's name was drawn, the name of the court, at which he is to serve, and the day when he must appear there. And the said town and parish clerk respectively, shall certify to the clerk of the court, who issued the *venire*, on the back thereof, the names of the persons so appointed to serve as jurors, and that they have been duly notified as aforesaid, at least the day before the sitting of the court to which the *venire* is returnable. And if any person, who shall be so appointed and notified to serve as a juror, shall neglect to attend accordingly, he shall be liable and subject to the fine and penalty of *thirty shillings*.

Town clerk to send notice to the persons appointed.

The names of the jurors to be certified on the *venire*.

Penalty for not attending.

And be it further enacted, That the justices of the respective courts aforesaid, are hereby directed, upon motion from either party, in the cause to be tried, to put a juror to answer upon oath whether returned as aforesaid, or as a talesman, whether he doth expect to gain or lose by the issue of the cause then depending ? Whether he is any ways related to either party ? And whether he hath been of council to either party, or, directly or indirectly, given his opinion, or is sensible of any prejudice in the cause ? And if it shall appear to the court, that such juror does not stand indifferent in said cause, he shall be set aside from the trial of that cause, and another appointed in his stead. And the sheriff and coroner respectively, are hereby authorized, to fill up a jury, by returning talesmen, as the case may require.

The court may put jurors to answer, upon oath, respecting their impartiality.

And be it further enacted, That, upon any emergency, a sufficient number of jurors may be appointed, and summoned, while such courts respectively are sitting. And the *venire* shall be issued to the town or parish clerk, jurors may be appointed during the sitting of the court.

Penalty for
non-attend-
ance.

clerk, immediately, and the names drawn, according as this act directs. And, in such cases, the town and parish clerk, respectively, shall order the constable or constables, of the town or parish respectively, to warn a meeting forthwith, and the number of jurors required in the *venire*, shall be immediately drawn and appointed as aforesaid, and notified to attend the service of the court from whence the *venire* issued, which shall be returned as soon as may be. And the jurors so appointed, and notified, shall immediately attend accordingly, on the pains and penalties aforesaid, in case of neglect so to do. And the town and parish clerks aforesaid, shall be paid, for the services enjoined them by this act, what is reasonable, by the towns and parishes in which they serve, yearly.

Passed June
19, 1787.

Preamble.

AN ACT to enable three justices of the peace, *unus quorum*, to determine all disputes concerning the maintenance of the poor.

WHEREAS there is no law now in force within this state, whereby any particular court, is impowered to determine disputes and controversies, which may arise concerning the settlement and support of the poor; and whereas it would greatly tend to the ease and convenience of the inhabitants of this state, to hear and determine all such disputes, as near as may be, to the place where they arise, and in a summary way, to the end, that the poor may not perish through want, while the parties are contending in law, about the burthen of their maintenance:

Three Justices to determine disputes concerning the support of the poor.

BE it therefore enacted by the senate and house of representatives, in general court convened, That all disputes which may arise in any county within said state, concerning the support and maintenance of any poor person, shall be heard and determined by three justices of the peace, *unus quorum*, in such county, who on a petition being preferred to them, shall order the adverse party to be served with a copy thereof, with their order thereon, appointing a proper day and place of hearing, giving eight days notice at least: and on hearing both parties, or the petitioner only, (if the adverse party, on notice as aforesaid shall not appear) shall

shall proceed to make such order thereon as shall appear just, either for the past or future maintenance of such person or persons; and may tax cost for either party, and issue execution thereon accordingly, under the hand and seal of the said quorum justice, who shall keep all records and proceedings thereon. And in all cases where such orders are made against any town or parish, or against any selectmen of any town or parish, the execution shall issue against the selectmen thereof, for the time being, and their estates, and they, or their successors, shall assess the inhabitants of such town or parish to reimburse them, unless they shall have so much of the town or parish's money in their hands, at the time such execution is served; and the said quorum justice shall be allowed six shillings per day, and the other justices five shillings per day, with travelling fees, as in cases of taking depositions.

Execution to
issue against
selectmen
who are to
assess the in-
habitants.

And in case the selectmen of any town or parish, or any relation of any poor person, in the line of father, or grand-father, mother or grand-mother, children or grand-children (such relations being of sufficient ability) shall disobey the order of any such justices, concerning the past or future maintenance of any poor person or persons, the petitioner in such case may apply to such justices as before mentioned, or to any other three justices (one being of the quorum) within such county, where such disputes and controversies may arise as aforesaid, by a new petition, setting forth the former order, and that the same had not been complied with: and such justices giving notice, as aforesaid, to such relation or selectmen of such town or parish, respectively, may hear the parties thereon as aforesaid, and may order the petitioner a reimbursement of all damages and charges sustained by means of the first orders not being complied with, and double costs, and issue execution accordingly, and so toties quoties. And any person aggrieved at the sentence or order of such justices, may petition the justices of the superior court at any time within six months after such sentence or order is declared, setting forth the original petition and order or sentence thereon; and briefly stating the evidence produced on trial, and assigning such errors as shall appear therein; which petition shall be lodged in the clerk's office of the superior court, and a copy thereof,

attested

Selectmen or
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attested by the clerk, delivered to the adverse party, or some one of them, by the petitioner, or at his cost, at least fourteen days before the sitting of said court, for his or their appearance. And the petitioner shall produce an attested copy of the whole case, and the justices of the superior court, shall hear the parties, or such of them as shall appear, on the matters and causes assigned for error, as well in fact, as in law, and admit a trial by jury, on a proper issue joined, and shall determine the same according to law. And in case the first sentence shall be reversed, the said superior court shall award to the petitioner, restitution of all costs and damages sustained thereby, and with additional costs; otherwise the adverse party shall recover double costs. And the same rules shall be observed in respect to execution awarded by the superior court, as have been before mentioned.

Justices thro'
the State,
quorum unus,
to determine
such disputes
in case.

And issue ex-
ecution.

And be it further enacted, That when it shall happen, that any such pauper, belonging to any such town or parish in one county, shall come to sojourn or reside in any town or parish belonging to another county within this state, any three justices, one of whom being a justice of the peace and of the quorum throughout this state, shall, and they hereby are impowered to take cognizance of, hear, try and determine such disputes, and to award execution, to carry such judgment into effect. And in case the selectmen of any town or parish, or any relation of any poor person in the line of father, or grand-father, mother or grand-mother, children or grand-children, being of sufficient ability, shall disobey the order of such last mentioned justices, concerning the past or future maintenance of any such poor person or persons: the petitioner in such case may apply to such justices last mentioned, or to any three other justices, (one of whom being a justice of the peace throughout this state, and of the quorum) by a new petition, setting forth the former order, and that the same hath not been complied with, and such justices giving notice as aforesaid, to such relation, or selectmen of such town or parish, respectively, for the time being, may hear the parties thereon as aforesaid, and may order the petitioner a reimbursement of all damages and charges sustained by reason of the first orders not being complied with, and double costs; and
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party, issue execution accordingly, and so toties quoties. Provided always, no application to the superior court, shall delay or hinder the order of the said justices from being put in execution, until the final order of the superior court thereon.

And any party aggrieved at the sentence or order of such last mentioned justices, may petition the justices of the superior court, and have a hearing upon such petition; and process shall be had thereon, in like manner as is above directed.

The party aggrieved may petition and have a hearing.

AN ACT for reducing the number of times for holding the court of general sessions of the peace within the several counties in this state, Passed Feb. 7. 1789.

WHEREAS the holding said court four times a year in each county in said state, as by law required, is not only unnecessary, but attended with great expence and loss of time. Preamble.

BE it therefore enacted by the senate and house of representatives in general court convened, That the said court be held in each county within this state, twice in a year, and no more; and that the times for holding said court be the same as now fixed, next before the holding the superior court of judicature in said counties, respectively, and that all recognizances, appeals and other matters which were to have been returned to, and might have been sustained by the court at the term hereby vacated, shall be returned to, and sustained by the said court at the next term hereby established, as fully to all intents and purposes, as if they had been originally returnable and cognizable at the said term.

General sessi. of the peace to be held but twice in a year.

And be it further enacted, That the justices of the said court of general sessions of the peace, at the next term of their holding the said courts in their respective counties, as by this act ordered, be and they hereby are authorized to determine and settle the term for the general granting of licences for the year, and the time of calling in new grand juries for their respective counties.

Justices to settle the term for granting licences.

And be it further enacted, That all laws heretofore made

Repealing
clause.

made concerning the said court, so far as they respect the holding said court four times a year, be and they hereby are repealed.

Proviso.

Provided nevertheless, This act, so far as it respects the county of Rockingham, shall not take effect until the first day of September next.

COUNTY MATTERS AND REGULATIONS.

Passed Dec.
13, 1776.

AN ACT for regulating the choice of county treasurers and recorders of deeds in the several counties in said state.

Preamble.

WHEREAS in the form of government established by the late congress it is directed, that the council and assembly should ascertain the manner of choosing county-treasurers and recorders of deeds for the several counties in said state, by the people of each county respectively :

Time and
mode of
choosing.

BE it therefore enacted by the council and assembly, and by the authority of the same, That at the annual meeting of each town and parish in the respective counties (if in the month of March) or at some other meeting, to be appointed for said purpose, to be held in the month of March, each voter shall bring in one vote for a county treasurer, and one vote for a recorder of deeds, for their respective counties; and that the votes for a county treasurer be sealed up in one paper, and the votes for a recorder of deeds in another, and certified thereon, which are votes for a treasurer, and which for a recorder, by the town or parish clerk, who shall return said votes so sealed up and certified, to the clerk of the court of general sessions of the peace, to be holden next after the said month of March, within and for such county; which votes shall be sorted by a committee to be appointed by said court, who shall make known to said court what person has the highest number of votes for each of said offices, and such person shall by the said court be declared to be chosen to said offices respectively, and be entered in the clerk's

Votes to be
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book accordingly. And in case there is an equal number of votes for any persons who have the highest number, the choice shall be determined by the votes of the major part of the justices of said court, present.

Courts of sessions to determine in case, &c.

And be it further enacted by the authority aforesaid, That in case of refusal, death, or other incapacity of any such officer, the said court shall issue a precept to the selectmen of each town and parish in such county, requiring them to call a meeting (according to law) of their town or parish respectively, to chuse another in the manner before directed.

Another meeting to be call'd in case of death or refusal.

And that the said court shall appoint a committee, which in case of death or other incapacity of any such officer, shall receive into safe keeping all records and papers belonging to the said office so vacant, which committee shall be under oath for the faithful performance of said trust.

Committee appointed in case of death or incapacity.

And be it further enacted by the authority aforesaid, That all such recorders of deeds, before they be qualified for said office, shall give bond to the speaker of the house of representatives for the time being (for the use of this state) with two sufficient sureties, in the sum of two thousand pounds, for the faithful performance of said trust. And that all such county treasurers, before they enter upon the duty of said office, shall give bond with two sufficient sureties, to the clerk of the court of general sessions of the peace for such county, in the sum of two thousand pounds (for the use of such county) for the faithful discharge of said trust.

Recorders to give bond.

And be it further enacted by the authority aforesaid, That all persons who now hold such offices, shall hold and execute the same until such further choice be made and declared, pursuant to this act.

An A C T to disjoin the town of Conway from the county of Grafton, and to annex the same to the county of Strafford.

Passed Nov. 10, 1788.

WHEREAS the inhabitants of said Conway, by their committee, have petitioned the general court, setting forth, that the said Conway was fifty miles distance from any inhabited town in the said county of Grafton; that it

Preamble.

was

was at a greater distance from the nearest shire town, and almost one hundred miles from the farthest ; that the said Conway lay more contiguous to the incorporated towns in the said county of Strafford ; and that for said reasons they prayed to be disjoined from the said county of Grafton and to be annexed to the county of Strafford ; which appearing to be just and reasonable :

Conway dis-
joined from
Grafton, and
annexed to
Strafford.

BE it enacted by the council and house of representatives, in general court assembled, and by the authority of the same, That the said town of Conway, be, and hereby is disjoined from the said county of Grafton, and annexed to the said county of Strafford ; and that forever hereafter, the said town, with the inhabitants, shall be taken and deemed as part of, and belonging unto the said county of Strafford, and shall pay their proportion of all county charges to the same county of Strafford, and not elsewhere.

AN A C T to annex the towns of New-Holdernefs and Campton, to the county of Grafton.

Passed Sept.
14, 1782.

WHEREAS the inhabitants of New-Holdernefs and Campton in the county of Strafford, have petitioned the general assembly, setting forth, that they are situated adjoining the town of Plymouth, wherein courts are held for the county of Grafton, and about sixty miles from Dover, where the courts are held for the county of Strafford, and therefore praying to be annexed to the said county of Grafton, which appears reasonable :

Preamble.

BE it therefore enacted by the council and house of representatives, and it is hereby enacted, That the said two towns of New-Holdernefs and Campton, shall be, and they hereby are severed from the county of Strafford, and annexed to the county of Grafton, and that the same two towns of New-Holdernefs and Campton, shall henceforth, to all intents and purposes, be esteemed as part and parcel of said county of Grafton.

Enacting
clause.

Provided, That this act shall not prevent the levying, collecting and paying of the county taxes already ordered by the justices of either of said counties, but the same shall be levied, collected and paid, in the same manner as if this act had not been made.

Proviso.

AN

AN ACT for laying out high-ways.

WHEREAS by the progressive cultivation and settlement of this state, and improvement of new lands, new high ways often become necessary :

Passed Feb.
27, 1786.

Preamble.

BE it therefore enacted by the senate and house of representatives in general court convened, That at any time hereafter, when there shall be occasion for any new high-ways, or private roads, to be laid out in any town or parish within this state, the selectmen of such town or parish shall be, and hereby are impowered, upon petition to them exhibited, if they see cause, to lay out the same, whether such high-way or road be for the benefit of the town or public in general, or for the benefit of the petitioner or petitioners only ; and due recompence shall be made to the owner or owners of lands through which such high-ways or roads may be laid out, either by the town or parish, where such ways are for general use, or by the petitioner or petitioners only, in case such roads be solely for their use : provided no road, for the use of individuals, shall be returned and recorded before the damage awarded therefor, be paid or tendered. And in case there shall be occasion for any new high-way to be laid out from town to town, through several towns, or through tracts of lands not incorporated, or both, or either, in any county within this state, the court of general sessions of the peace for such county, upon petition to them for that purpose, shall and may, if they see cause, lay out or cause to be laid out, such high-way, by a committee to be appointed for that purpose ; the return whereof, being recorded in said court, shall be valid. And said committee shall estimate the damage done to any person's property, within any town or parish, by means of such laying out, to be paid for by such respective town or parish : provided that the selectmen of such towns or parishes shall be duly notified by the court, to appear and shew cause, if any they have, why such high-ways should not be laid out. And in case the way petitioned for, or any part thereof, shall be to be laid out through any lands not incorporated ; the substance of the petition, and order of the court thereon, shall be published three weeks successively, in the New-Hampshire Gazette, that the owner of such land may

Selectmen to
lay out high-
ways.

Court of G.
ses. to lay out
new high-
ways.

Redress for
damages.

may appear and shew cause, if any he hath, why the said high-way should not be laid out.

Selectmen neglecting to lay out high-ways, the C. G. S. may.

Persons aggrieved may apply to C. G. S. for redress.

And be it further enacted, That in case the selectmen of any town or parish in this state, being petitioned as aforesaid, shall unreasonably neglect to lay out any such high-way requested as aforesaid, the petitioners may apply to the court of general-sessions of the peace, setting forth such unreasonable neglect; and the court shall cause the said selectmen to be notified, and after hearing the parties, may, if they think fit, proceed to cause the high-way petitioned for, to be laid out as before-mentioned, and allow cost as the case may require. And if any person or persons think themselves aggrieved by the selectmen in not making sufficient allowance, or in not paying for such high-ways laid out through their lands, in any town or parish respectively, such person or persons may petition the court of general sessions of the peace for such county, for redress therein, which court may inquire into the same by a committee for that purpose, and order such redress, with cost of suit, as they shall judge equitable and just; or may order the petitioner to pay cost, and grant execution accordingly.

Proviso.

Provided nevertheless, That the cost of laying out high-ways from town to town, or through any lands not incorporated into any town or parish, upon application originally made to the court of general-sessions of the peace, shall be paid by the county.

Passed Feb. 27, 1786.

AN A C T for mending and repairing the high-ways in this state.

Towns to vote what sum they will raise for high-ways.

Selectmen to assess the same.

BE it enacted by the senate and house of representatives in general court convened, That every town and parish within this state, invested with town privileges, shall, at their annual meetings in the month of March, or at any other legal meeting, vote such sum of money as they shall think proper, for making, mending and repairing the several high-ways and bridges in said town or parish, for that year. And the selectmen of said towns and parishes, are hereby ordered, to make an assessment upon the polls and estates of the inhabitants of their respective towns and parishes, in the same man-

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ner as for the state tax : and said towns and parishes, may, at their said meetings, choose as many surveyors of high-ways as they may think proper ; and the selectmen shall, on or before the first day of June next, after the choice of such surveyors, limit their several districts, and give to each surveyor a list of each person belonging to his district, and of their respective proportion of the sum voted to repair the high-ways as aforesaid. And the towns and parishes may, at the time of voting said money, affix the price of the several sorts of utensils and materials to be employed about said high-way, for that year, as also the price of labor ; and if they neglect it, the said prices to be set by the selectmen. And the surveyors are directed to warn the several inhabitants of their respective districts, to work on said ways, each man his proportion of said sum at the prices affixed : and every surveyor shall give four days notice (which notice shall be personal, or left in writing at the parties last and usual place of residence) to every person, he shall warn, of the time and place, and tools, when, where, and with which such person shall attend ; except in cases of sudden emergencies, as the repairs of bridges, and making paths in deep snows, which may require immediate remedy : in which cases, it may and shall be lawful for the surveyor to warn them, or any of them, to attend forthwith. And if any person shall refuse, or neglect to work, or send a sufficient hand, unless he shall make a reasonable excuse to said surveyor, within four days after the time set for said labor ; in which case he shall be notified to work at some other time ; the said surveyor is hereby authorized and required to levy the delinquent's parts or proportion of said money by distress, in the same manner as the several constables and collectors are enabled by law to do in collecting the state tax. And the surveyors are hereby directed to settle accounts with, and pay the balance, if any there be in their hands, to the selectmen or town treasurer, agreeable to the warrants or directions given them for that purpose : and if any of the surveyors refuse or neglect their duty herein, the selectmen or treasurer for the time being, are hereby authorized, to proceed with such surveyors in the same way and manner, as they are by law authorized to proceed with constables

Surveyors to be chose.

Selectmen to limit the surveyors districts, &c.

Towns to affix the price of labour, &c.

Surveyors to give 4 days notice, of time, place, &c.

Surveyor to make distress in case.

Surveyors to account with the selectmen

Selectmen to proceed with surveyors as constables in like cases.

bles or collectors who are delinquent in collecting and paying the taxes committed to them to collect.

And whereas it may happen, that by some unforeseen accident, as the decay of bridges, or their being carried off by freshets, the sum allotted to any particular district may prove insufficient :

Selectmen
may order
surveyors in-
to other dis-
tricts.

Be it enacted by the authority aforesaid, That in all such cases, the selectmen may order the surveyor or surveyors of any district or districts, with such persons in his or their lists, as have not worked out, or satisfied their respective rates, to work where such accident shall happen.

And whereas the surveyors of high-ways are annually chosen in the month of March, and some time elapses before the selectmen can set off their districts, and make their list of rates so as to enable them to enter on the duties of their office :

When sur-
veyors shall
begin their
office.

Be it therefore enacted, That the surveyors of high-ways, shall hereafter be considered as beginning their office, the first day of June next following their appointments in March, and to continue in office for the term of one year from the time of beginning said office.

A remedy
for damage
done by bad
high-ways.

And be it further enacted, That in case any special damage shall happen to any person or persons, or to his, or their teams or carriages, by means of the insufficiency or want of repairs of any high-ways or bridges, in any town or parish within this state, the party aggrieved shall recover his or their damage, in an action against such town or parish. And the said town or parish shall have a remedy over against any surveyor or surveyors through whose fault or neglect the same happened : and surveyors of high-ways are hereby authorized and impowered to purchase, at the cost and charge of their respective towns and parishes, all such timber, plank and other materials, as are necessary for mending and repairing the high-ways and bridges in their respective districts.

*And whereas many persons within this state, make a practice of unloading and laying down in the streets or high-ways, masts, spars, mill-logs, boards, plank, timber and other lumber, firewood and rocks for building, to the great incumbrance of said streets and high-ways, so as to render them almost, or altogether impassable : for pre-
vention whereof,*

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Be it further enacted by the authority aforesaid, That in any of the cases afore-mentioned, the surveyor of the district where any such incumbrance shall be, shall make complaint in writing to some justice of the peace for the county, dwelling in the same town, or in one of the next adjacent towns to the place where the offence is committed; which justice, upon his own view of such incumbrance, shall and may, by warrant under his hand and seal, directed to such surveyor, cause the same immediately to be removed so far as the said justice may judge necessary for the public good; and may and shall also therein order so much thereof to be sold by such surveyor, as shall be adjudged by said justice, necessary to pay the legal costs which said justice shall tax, and three times the price of the labor of removing the same, which labor shall also be estimated by said justice. And all high-ways already laid out, or hereafter to be laid out, through any tracts of land not incorporated, shall be made passable, and kept in repair by the owner or owners of the lands through which they run, and all the proprietors or owners of any unincorporated tract of land holding under one title, whether the same be a tract held under a grant or charter from the crown of England, made by any of the late governors of New-Hampshire, or by any deed, grant or charter, from the proprietors of the land purchased of John-Tufton Mason, Esq. or any tract of land held in common and undivided by said last mentioned proprietors, or any tract divided and severed by them among themselves at any one time, so far, or so much thereof as may remain unincorporated, shall be considered as held to pay their proportions, according to their interest, of all cost of making or repairing the high-ways through any part of said tract. And the court of general sessions of the peace, whenever they shall cause any new high-way to be laid out through such unincorporated tract of land, shall cause an advertisement thereof, to be printed in one of the New-Hampshire news-papers, four weeks successively, expressing the return, or laying out of such high-way, and requiring the proprietors of the land to make the same passable within such reasonable time as the said court shall therein prefix. And in case the same shall not be complied with, to the satisfaction of the court, the said court

Complaint being made to a justice of the peace he shall issue his warrant for removal.

High-ways through land not incorporated to be kept in repair by the owners of said lands.

Court of G. sels. to advertise the laying out of any new high-ways.

shall proceed to assess the said tract of land at so much per acre as they may judge necessary to repair said high-way through the same. And the treasurer of such county shall forthwith cause such tax to be advertised in manner aforesaid, requiring each and every of the owners of any part of said tract, to pay said tax to said treasurer, in sixty days from the first publishing said advertisement, or that the same will be sold at vendue, at a certain day and place. And every owner of any part of said tract, shall pay said tax for his part of said tract, and take a receipt describing the land for which he pays. And the remaining part of said tract for which the said tax is not paid by the expiration of said sixty days, may be sold by such treasurer, or his successor, at public vendue, at the time and place that shall be set forth in said advertisement, or so much thereof as may be necessary to pay said tax, with incidental charges; and such treasurer, or successor, is hereby authorized to make and execute a good deed or deeds thereof, allowing the same time for redemption, as is by law allowed in other cases of land sold for taxes: and the money so raised, shall be applied by said court, or by a committee appointed by them for that purpose, to make and repair said high-ways. And a similar method shall be taken from time to time by said court, for keeping in repair all high-ways running through lands not incorporated, in case the owners of such lands shall neglect the same. And the proprietors and owners of the aforesaid unincorporated tracts of land, are hereby authorized to call meetings for the purpose of voting such sums of money from time to time, as they may think necessary for making and repairing said high-ways, and choosing officers for levying and collecting the same, as fully to all intents and purposes, as proprietors of common and undivided lands, are by law authorized to do.

Passed Feb. AN A C T to prevent incroachments upon high-ways.
27, 1786.

Preamble.

FORASMUCH as divers incumbrances and incroachments have been made, or hereafter may be made, in and upon the common roads, high-ways and streets heretofore laid out,

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out, or which shall hereafter be laid out, within the several towns of this state :

For remedy whereof,

BE it enacted by the senate and house of representatives, in general-court convened, That henceforth no edifice, building, or fence whatever, shall be raised, erected, built, or set up in, upon, or over any of the said roads, high-ways, streets, lanes, or allies, within this state, or any part of any of them, whereby to streighten the passage, or any ways lessen the full breadth of any such roads, high-ways, streets, lanes, or alleys : and if any edifice, building, or fence whatsoever, shall be raised, erected, built, or set up, or being erected, shall be continued upon, in or over any such road, high-way, street or alley, contrary hereunto, every such edifice, building, or fence, shall be deemed and held to be a common nuisance. And the court of general-sessions of the peace within the county where such offence may be committed, upon indictment and conviction of the offender, are hereby impowered to order, and cause such edifices, buildings, or fence to be taken down, demolished, and removed, and further to punish the offender by fine, not exceeding *ten pounds* and costs of prosecution. *Provided nevertheless*, That this act shall not be intended, or construed to intend, the prohibiting of the setting up of any conduit, watch-house, cage, or stocks, for the public use, in or upon any high-way or street within this state. And no person shall presume, wantonly or illegally, to hurt or damnify any high-ways, cause-ways or bridges, within this state, by destroying or taking away any of the plank, posts, timbers, or rocks thereof, or by digging any pits therein for gravel, clay, or any other cause whatever, upon the penalty aforesaid, upon being convicted, as aforesaid. But if the damage is supposed not to exceed the sum of *twenty shillings*, any justice of the peace for the county where the offence is committed, may take cognizance thereof, and, on conviction, punish the offender by fine not exceeding *forty shillings*, and costs, with liberty to appeal to the next court of sessions of the peace for said county.

Provided, That this act shall not be construed to hinder the setting up of any gate, in or upon any high-way leading through any meadow or interval land, liable to freshets, as hath been customarily done.

No edifices, &c. to be set on high-ways

Q. sels. impowered to demolish buildings.

An exception.

No person to damnify high-ways.

Proviso.

Passed Feb.
27, 1786.

AN ACT for repealing sundry laws of this state, relative to high-ways.

Preamble.

WHEREAS three several laws have passed the general court at their present session, intituled, "An act for laying out high-ways," "An act for mending and repairing the high-ways in this state," and "An act to prevent incroachments upon high-ways," which same laws supersede, and are, under the farther continuance of the laws heretofore in force within this state, for the purposes aforesaid, inconvenient :

Enacting
clause.

BE it therefore enacted by the senate and house of representatives, in general court convened, That all the laws heretofore in force within this state, relative to high-ways, except an act intituled, "An act to enable selectmen to change high-ways, and to apply land left for high-ways, where it is not suitable, and to purchase land suitable for that purpose, where it is wanting," be and hereby are repealed.

DEBTS AND DEBTORS.

Passed June
21, 1782.

AN ACT for the ease and relief of prisoners for debt.

Preamble.

WHEREAS the detaining prisoners for debt in gaol who have no visible means, or rational prospect of discharging their debts while they are held in prison, but become more deeply involved, is a great damage to the creditors, as well as the prisoners and their families, and when they are capable of labour, their detention becomes a public loss : Moreover, the confining prisoners for debt with criminals, is not expedient, nor any ways suitable to their different circumstances :

Therefore,

Conditions
on which a
prisoner may
be admitted
to take the
oath.

BE it enacted by the council and house of representatives in general court assembled, and by the authority of the same it is hereby enacted, That when any person shall be committed to prison, or is now detained there upon execution for debt, if the judgment on which it is or shall be granted, was or shall be given on any proper action of debt, covenant, or contract, in which a certain

certain sum shall be found actually due to the plaintiff, or was so found on the judgment already given, and not otherwise, who had not at the time of such commitment, or shall not have at the time of his commitment, any visible or other known estate, exceeding the value of the sum of *ten pounds*, and no person appearing to pay the debt, or give security to the creditor, for the same, or some way compound or settle with him or them, within two months after such commitment, such prisoner shall have liberty to petition the court, awarding such execution, or in time of vacation, any two of the justices of said court, to admit him to take before them, the following oath, namely :

" I do solemnly swear, that I am not the owner of any real or personal estate in possession or reversion, or remainder, nor in the possession of any person or persons for me, of the value of *six pounds* lawful money (exclusive of one necessary suit of apparel) at any just and reasonable valuation, nor have I since the commencement of the action, on which the judgment was obtained, by virtue of which and the execution thereon I am now detained and held prisoner, any way embezzled, destroyed, concealed, or transferred any such estate with a view of defrauding any of my creditors, or changed the possession of the same for that purpose, or for any advantage to myself, or any depending on me for support and subsistence, nor any way, directly or indirectly, done any thing like it, or with a view to accomplish such a design ; and I also add, that I have not at any time, with a view and design of injuring, defrauding, or delaying payment of my just debts, done any of the matters and things herein before mentioned, by any ways or means whatsoever. *So help me God.*"

Oath.

Which oath shall be repeated by those who take it.

And such court or justices shall order the clerk of the said court to notify the creditor or creditors, if in this state or the attorney who appeared in the cause, or any factor or agent of such creditor or creditors, if not inhabiting in this state as aforesaid, that such petition is then laying before the court or justices, and when, and where, the said oath is to be administered, giving reasonable time for the parties attendance, or the attorney, agent, or factor, or the plaintiff, having regard to the distance he or they are to travel ; and the

Clerk to notify the creditors, &c.

the said oath being duly administred, the prisoner satisfying the prison-keeper for past charges, shall forthwith be dismissed from prison, unless the creditor or creditors, their respective attorney, factor or agent, will engage to pay the prison-keeper the sum of five shillings lawful money per week, to be paid weekly, or otherwise as may be agreed with the prison-keeper, towards the support of such prisoner, and in default of performance by the space of thirty days after such payment becomes due, the prison-keeper shall discharge the prisoner.

Fine for the prison-keeper to defraud a prisoner of his allowance

And if the prison-keeper shall defraud the prisoner, of any part of such allowance, upon complaint and proof thereof to the satisfaction of the respective court, from whence such execution issued, the prison-keeper shall forfeit and pay the sum of *ten pounds* like money, for the use of the prisoner, for which sum the respective courts are hereby authorized to issue execution immediately, without further process.

Any person imprisoned for debt to have a chamber.

And be it further enacted, That any person imprisoned for debt or claim thereof, upon mean process, or execution founded on any of the actions aforesaid, shall be permitted and allowed to have a chamber, and lodging in any houses or apartments, belonging to such prison, and liberty of the yard thereto belonging, in the day time only, but not to pass without the limits of the prison, which limits are hereby established, and restrained to be within one hundred and fifty feet of the walls of the prison, upon reasonable payment to be made to the prison-keeper, for said chamber, not exceeding *one shilling* per week; such prisoner giving bond, to the sheriff with two sufficient sureties, being freeholders in the state, to be bound jointly and severally, in double the sum, for which such person is confined, with a condition underwritten, in the form following, viz.

Condition of the bond.

"The condition of the above obligation is such, that if the above bounden—now prisoner in the gaol in—at the suit of—do and shall from henceforth continue to be a true prisoner, in the custody, guard, and safe keeping of—keeper of the said prison, or his successor, and in the custody, guard and safe keeping of his deputy, officer, servants or some one of them, within the limits of said prison, as by law established, until he shall be lawfully discharged, without committing any

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escape until such discharge, then this obligation to be void, or else to abide in full force and virtue."

The blanks in said condition to be filled up as the respective cases may require: the obligation to be made to the sheriff of the respective counties, or his successor in said office.

And in case of any escape by such prisoner, his bond shall be transferred and assigned over to the creditor or creditors, by the sheriff, with full power to enable him or them to put the same in suit in the name of such sheriff, or his successor, and the creditor shall recover his debt, and damage, with such sums as have been expended for the prisoner's weekly support, by force of this act against the principal, and sureties, or any of them, to be chancered by the court, which shall be a full indemnity to the sheriff for such escape. Provided such sureties be approved as sufficient by the court or justices who shall administer the oath as aforesaid, and no other security shall be accepted in such cases.

In case of escape the bond to be transferred.

And be it further enacted, That if any prisoner shall be detected of any fraud, deceit, or falsehood, in the management of his estate, real or personal, to take the advantage of this act, he shall not be allowed the same, but shall remain a prisoner, as if this act had not been in force.

A prisoner detected of fraud not to be benefited.

And be it further enacted, That the oath aforesaid, and the liberty granted thereupon, shall not be to any prisoner, a discharge or release of the debt or damages for which he was imprisoned, but shall pay the same together with the weekly charges which shall arise as aforesaid, if he shall, after such liberty, acquire or obtain any estate sufficient to pay the same, or be in circumstances capable of so doing, and the judgment shall remain uncanceled or not discharged, until it shall be satisfied.

Oath &c. not a discharge.

AN ACT in addition to an act, intituled "An act for the ease and relief of prisoners for debt." Passed Jan. 3, 1784.

WHEREAS in and by said act, it is among other things enacted, that such prisoner for debt, on execution under certain circumstances, might petition the court awarding such execution, or in time of vacation, any two of the justices of said court who might admit such prisoner

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er to an oath prescribed by said act, and discharge him out of prison; and whereas great inconvenience sometimes happens by such justices being remote and out of the county where such prisoner is detained in gaol:

For remedy whereof,

Enacting
clause.

BE it enacted by the council and assembly, and it is hereby enacted, That any two justices of the inferior court of common pleas in the county where such prisoner is detained in gaol for debt, as in said act is set forth, shall and may exercise all and singular the powers and authority in said act prescribed, to be used by the justices of the court from which the execution issued, for relieving such prisoner and for discharging him out of gaol. And the benefit of said act shall be extended as well to prisoners for debt on execution from a justice of the peace, as to any other prisoners whatever, by any two justices of the inferior court of common pleas of the county as aforesaid.

Passed June
21, 1787.

AN ACT to set off mutual executions against each other.

Preamble.

WHEREAS it is just and reasonable, that mutual executions should be set off against each other:

Therefore,

Enacting
clause.

BE it enacted by the senate and house of representatives in general-court convened, That in all cases where any persons have mutual executions against each other, in their own rights, or where any person as executor or administrator, has, or may have an execution against another who has, or may have in his own right, an execution against such executor or administrator, for a debt due from his testator or intestate, or where executors or administrators have executions against each other for mutual demands between their testators or intestates, the sheriff, at the request of the creditor upon either execution, shall set off one execution against the other, which set off, if the sum contained in such mutual executions be equal, shall satisfy them, and return thereof shall be so made by the sheriff. And where the sum contained in one of said mutual executions, is greater than the other, the sheriff upon request as aforesaid, shall set off and deduct the less from the greater sum,

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and shall return the execution for the less sum satisfied, and shall proceed to levy the balance upon the other execution as directed in the writ; and in all cases where mutual executions shall be set off against each other, this special matter shall be returned.

AN ACT for the more speedy recovery of small debts, and to save the cost usually attending the recovery thereof, in the present course of the law. Passed June 28, 1787.

WHEREAS the common and ordinary method of recovering small debts, proves very burthensome to poor debtors; Preamble.

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That any person or persons, who shall voluntarily appear before any justice of the peace, in the county where he, she or they live, and confess that he, she or they, do justly owe, and stand indebted to any other person or persons, in any sum not exceeding ten pounds, and that such person or persons, consent that a record thereof be made, and execution issued accordingly, or be stayed for such time as may be agreed by the parties; the justice is hereby authorized and directed to make a fair record of such confession and agreement, and to order the person or persons so confessing, and likewise the creditor or his agent to sign the same; and the justice shall enter up judgment thereon, and issue execution according to such judgment. And such justice shall enter on the evidence of the demand, the sum for which judgment was confessed, together with the time and place of doing the same, and keep the same in a proper file for that purpose.

Persons confessing a debt the justice shall enter up judgment & issue execution.

And be it further enacted, That such execution may be served (within said county) in the same manner as executions issued from the inferior-court by law may be done. How executions may be served.

And be it further enacted, That any two or more persons, having a controversy between them of ten pounds value, or under, may apply to a justice of the peace, and enter into a rule, to refer the same to such person or persons as they may agree upon. And the said justice, is hereby empowered to receive the report, Persons having a controversy may refer the same.

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enter up judgment and issue execution thereon for the damages and costs of suit : provided the damages do not exceed the sum of ten pounds : which report being received, and judgment entered thereon as aforesaid, the same shall be final and conclusive between the parties.

Passed June
28, 1787.

Preamble.

AN ACT to exempt the bodies of debtors from prison, in certain cases, when sufficient estate is tendered to satisfy the demand.

WHEREAS in the present scarcity of cash it is extremely difficult in all cases for debtors to discharge the demands against them, in silver or gold ; and the committing persons to prison, on execution for debts, in every case when real or personal estate is tendered by the debtor, or found by the creditor, to satisfy the same would at this time, be very injurious :

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That after the publication of this act, and during the continuance thereof, whenever any debtor shall tender to the creditor or officer, in satisfaction of any execution recovered upon, action of debt, covenant, or promise, (except in an action upon a bond taken by a sheriff, of his deputy, or in cases herein after excepted) either real or personal estate sufficient to satisfy the same, said debtor's body shall not be liable to be taken or held in execution, except as is herein after provided ; but the estate aforesaid, may be taken by the creditors and appraised off, by three reputable freeholders of the county in which said estate shall be taken, in the same manner as the law directs for the appraising real estate, in satisfaction of execution : Provided always, that in case of estate being tendered as aforesaid, the creditor shall not be compelled to accept the estate so tendered ; but if he can find any other estate, real or personal, whereon to levy his execution, the same may be taken ; and in all cases, when any estate shall be taken on execution, the same shall be appraised and set off as aforesaid.

And be it further enacted, That in all cases, where real estate shall be tendered by the debtor, and accepted

The debtor's body not liable, but his estate may be taken and appraised.

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ed by the creditor, no equity of redemption shall be allowed; but if the said real estate is taken, at the election of the creditor, the same time for redeeming such estate shall be allowed, as the law of this state, in such cases provides.

No redemption allowed.

And be it further enacted, That when the creditor shall not think proper to levy his execution on real or personal estate, found, or tendered as aforesaid, the body of the debtor shall be exempt; and the said debt shall carry six per cent. per annum, interest, on the judgment, until the same is satisfied.

The body exempt.

Debt to carry interest.

And be it further enacted, That the creditor may, at any time, renew his execution, and take out an alias, or pluries, as the case may require, within one year after the return of any former execution, and levy the same on any estate of the debtor which he can find: and the clerk of the court, issuing out such alias execution, shall cast the interest thereon, from the time of rendering the original judgment, and certify the same on the back of the alias or pluries execution. And the sheriff or other officer, is hereby impowered to levy the same, as tho' it was contained in the original judgment: provided always no more than simple interest shall be allowed on any execution. And in order that the sheriff or other officer may know what executions are for debt, or contract, or promise, and what are for damages in trespass and other actions for torts:

The creditor may renew his execution

Be it further enacted, That the clerk shall, on the back of every execution, certify what said execution was recovered upon, whether on note, bond, contract, or covenant, or bond taken by the sheriff, of his deputy; or for trespass, trover, or other tortious act: and if it be upon such sheriff's bond, or for any tort, the sheriff or other officer, shall proceed to levy the same as though this act had not been made.

The clerk to certify, &c.

And be it further enacted, That when it shall happen that the body of any debtor shall be taken by an execution, issued from a court of record (on which, by this act, he is admitted to tender real or personal estate) in any other county than where his estate shall happen to lie, if he shall make oath before any justice of the peace, in the county where he happens to be taken, that he has estate, real or personal, in some other county, sufficient to satisfy said execution, free from incumbrance, and

The debtor shall make oath.

and shall particularly describe the same, the sheriff shall immediately notify the creditor, his agent or attorney, and shall certify on the back of said execution, that the said debtor has made such oath or affirmation, and shall deliver the same over to the creditor, who may, if he thinks proper, repair to the county where such estate is supposed to lay, and the sheriff, or his deputy of that county, may proceed to serve the same on such estate, and make return thereon, of his having levied on such estate, or that none such could be found, and deliver the same to the creditor, who is to return the same within twenty days, to the sheriff who first served said execution; and in case the creditor neglects so to do within the time aforesaid, the sheriff, or his prison-keeper, (if the debtor stands committed) shall liberate the debtor upon his paying the fees of service, and prison charges, if any there be. And the sheriff who first apprehended the body of such debtor, shall on his delivering over such execution to the creditor, take and keep a copy thereof, which shall be sufficient for him to detain the body of such debtor, during the twenty days aforesaid, unless such debtor give bond with sufficient sureties to the sheriff, that in case the estate so tendered should be found insufficient to satisfy the execution, he will surrender himself to the sheriff, at or before the expiration of the said twenty days: upon giving such bond, he shall be liberated for that space of time.

Executions to be directed to either of the sheriffs.

And be it further enacted, That in future, executions from any court of record, shall be directed to any, or either of the sheriffs of the several and respective counties, or their deputies, unless where the sheriff is a party: in which case, they are to be directed to the corner of his county, and to the sheriffs of the other counties, and their respective deputies. And in order that the creditor may not be injured for want of proper notice,

Executions to be indorsed.

Be it further enacted, That when an execution is delivered or sent to the sheriff of any county, the person delivering or sending the same, shall, on the back thereof, indorse the name of some person in the same county, who shall be considered as the creditor's attorney, and notified as such, unless the creditor live within, or can be found in the said sheriff's precinct.

Be

Be it further enacted, That in all executions to be issued after the publication hereof, on which a tender is allowed by this act, the words "to the acceptance of the creditor," shall not be inserted in the same; any law, usage or custom, to the contrary, notwithstanding.

Certain words not to be inserted.

And be it further enacted, That if after such oath or affirmation made as aforesaid, no estate can be found, and is so certified by the officer, the body of the debtor, shall be holden until he satisfies the execution, with all the costs thereon, as though this act had not been made. Provided always that the debtor, if required, make oath before a justice of the peace, that he has not recovered, conveyed, or disposed of any estate or property of his, since the commencement of the suit upon which the said execution was obtained, with a design to defraud his creditor.

The bodies of debtors to be holden.

Provido, basiq

And be it further enacted, That in all cases, where an execution issuing from a justice of the peace, shall be levied on real estate in consequence of this act, the levy shall be made, by the sheriff, or his deputy, of the county whereto such justice is commissioned, and execution recorded in the office of the recorder of deeds for the same county: and when any such execution is levied on personal estate, the same shall be appraised in the same manner, as if the execution had issued from some court of record: and every justice of the peace, shall make notes on all executions issued by him, in the same manner as the clerks of the several courts are directed to do by this act.

Levy to be made by the sheriff.

Provido.

Provided nevertheless, That this act shall not extend to, or be construed to extend to, or affect any contract or obligation, made and dated after the last day of August next, whereby any person or persons promises to pay gold or silver.

And be it further enacted, That all other laws now in force respecting tendering real or personal estate, shall after the publication of this act, be, and hereby are repealed.

This act to continue and be in force for the space of three years and no longer.

Passed June
27, 1782.

Preamble.

An offset
plead in bar,
&c.

Justices of the
peace to ren-
der judgment
for bills and
costs.

Passed June
27, 1786.

Preamble.

Enacting
clause.

AN ACT in addition to an act, for setting off debts and mutual demands.

WHEREAS by an act made and passed in the fifth year of his majesty king George the third's reign, mutual debts and demands may be set off against each other, either by being plead in bar, or offered in evidence as the case may require; but no provision is made, in case the defendant's demand shall exceed the plaintiff's.

For remedy whereof, BE it enacted by the senate and house of representatives in general court convened, That when an offset, is plead in bar, or offered in evidence by the defendant against the plaintiff's demand, in any action, in which by said act an offset is allowed, if it is found by the jury, who shall try the cause, that there is a balance due to the defendant, judgment shall be rendered for the defendant, for such sum or balance, as they shall find due, and legal costs.

And be it further enacted, That when any offset, shall be plead as aforesaid, in any case triable by a justice of the peace, the justice shall in like manner render judgment and grant execution accordingly, for the balance he may find due to the defendant. Provided the balance so found, exceeds not his jurisdiction.

AN ACT to prevent unnecessary costs to debtors by creditors bringing actions of debt on judgments, where such creditors might have availed themselves of executions on the same judgments.

WHEREAS the bringing actions of debt on judgments upon which execution might be issued and served or levied, tends greatly to oppress debtors, by loading them with unnecessary costs:

Therefore, BE it enacted by the senate and house of representatives, in general court convened, That in all actions of debt, hereafter to be brought upon judgments recovered in any of the courts within this state, upon which executions might issue and be served or levied, at the time of commencing such action of debt, the plaintiffs shall not recover any costs, but the justices of the court before whom said action of debt may be brought, shall enter up judgment for the debt and costs recovered

recovered in the former action only by any law, usage, or custom, to the contrary, notwithstanding.

ESTATES TESTATE AND INTESTATE, &c.

AN ACT for settling of testate estates.

Passed Feb. 3, 1789.

BE it enacted by the senate and house of representatives in general court convened; That every person lawfully seized and possessed of any estate in lands, tenements or hereditaments within this state, of the age of twenty-one years and upwards, and of sane mind shall have power to give, devise and dispose of the same, as well by his last will and testament in writing, as by any other act duly executed, to and among his or her children, or others as he or she shall think fit. And that all devisees and bequests of any estate in lands, tenements, and hereditaments shall be in writing, and sealed by the party devising the same and signed by him, or by some person in his, or her presence, and by his or her express direction, and shall be attested and subscribed in the presence of the said devisor, by three or more credible witnesses, or else shall be void and of none effect.

Persons seized of lands &c. may dispose of the same by will.

And be it further enacted, That when any child shall happen to be born after the death of the father, without having any provisions made in his will, every such posthumus child shall have right and interest in his or her father's estate, in like manner, as if he had died intestate, and the judge of probate shall issue his warrant as in case of intestates, to assign to such posthumus child a share in said estate, equal to what he or she would have inherited, had the father died intestate, and the same shall be taken in proportion from the devisees and legatees who own the estate by virtue of such will.

Posthumus children to have a proportion, &c.

And be it further enacted, That any child, or children or their legal representatives in case of their death, not having a legacy given him or them in the will of their father or mother, shall have a portion of the estate of the testator assigned unto him, her, or them, as though such parent had died intestate. Provided such child, children

And such as have no legacy given them.

children, or grand-children, have not had an equal proportion of the deceased's estate bestowed on him, her or them, in the deceased's life time. And when any person, having a devisee of real or personal estate, shall die before the testator, and leave lineal descendants, such descendants, shall take the estate devised in the same manner the devisee would have done, had he or she survived the testator. And the widow may waive the provision made for her in the will of her deceased husband, and have her dower assigned her in the same manner as though he had died intestate: in which case she shall have no benefit from such provision, unless it appears to have been the testator's intention, that such provision should be in addition to her dower.

No will to be approved unless.

And be it further enacted, That no will or instrument in writing hereafter offered for probate, purporting a disposition of real and personal estate, not being executed with the formalities aforementioned, shall be approved or considered of validity to pass or convey any such estate or estates whatever.

Real and personal, estate not devised to be distributed &c.

And be it further enacted, That all such estate, real and personal, that is not devised or bequeathed in the last will and testament of any person hereafter to be proved, shall be distributed in the same manner as if it were an intestate estate, and the executor or executors shall administer the same accordingly.

Executors to cause probate of wills to be made, &c.

And be it further enacted, That any executor or executors of the will of any person deceased, knowing of their being so named, neglecting for more than thirty days next after the decease of the testator, to cause such will to be proved before the judge of probate for the county where the deceased person last dwelt, or to present the said will to the said judge, and in writing, to declare his, her or their refusal of the trust (without just excuse made to, and accepted by the said judge for such delay) shall forfeit the sum of five pounds a month for such neglect, from and after the expiration of the said thirty days; to be recovered by action of debt in the inferior court in the same county, one moiety for him or them that shall sue for the same, and the other for the use of the legatees named in the same will. And upon any such refusal, the judge of probate shall commit administration of the estate of the deceased, with the will annexed, unto the widow or next of kin to the

deceased,

deceased, or one or more of the devisees; or in case of their refusal to one or more of the principal creditors, as he shall think fit.

And be it further enacted, That every executor or executrix named in any will hereafter to be proved, and taking upon him, or herself that trust by proving the same, shall give bond to the judge of probate, with sufficient surety or sureties, to return upon oath, a true and perfect inventory of the estate of the testator, into the probate office, and to render an account of his or her proceedings thereon, in the same manner as administrators are by law obliged to do, unless such executor or executors are residuary legatees, in which case bond may be given by him, her or them, to pay the debts and legacies of the testator; and in case any executor or executors shall neglect or refuse, for the space of twenty days, to give bond as aforesaid, the judge of probate may commit administration of the estate of the testator with the will annexed, to some other person, in like manner as he may grant the same, when the executor refuses the trust: And where divers persons are named executors in any will hereafter to be proved, none shall intermeddle and act as such, but those who give bond as aforesaid.

Executors to give bond and with sureties.

And be it further enacted, That when any executor of any last will and testament, shall become insane, or otherwise incapable of discharging the trust, the judges of probate within their respective counties observing the rules aforesaid, are hereby authorized to grant letters of administration, with the will annexed, to such person as to the said judge shall seem meet. And the administrator thus appointed, shall have the same power and authority to administer the estate of the deceased not administered by such former executor, and be subject to the same duties, as if said executor were actually dead. And when a feme sole shall, with one or more persons be appointed executrix, and after such appointment, shall during the life of her co-executor marry, such marriage shall not make her husband an executor in her right; but shall operate as an extinguishment of such woman's power, and the other executor or executors may proceed in discharging the trust, in the same manner, as if the woman were dead. And the executor of an executor shall not in consequence thereof,

Executors becoming insane, &c. the judge to grant letters &c. to other persons.

become the executor of the first testator; but in every such case, administration may be granted (if circumstances require it) upon the goods and estate of the first testator unadministered, with the will annexed, to such person or persons as the judge of probate may think fit (he observing the rules for granting administration as above mentioned) any law, usage or custom, to the contrary, notwithstanding.

The judge of probate, upon application, may order a division to be made.

And be it further enacted, That when and so often as any devisee (or his or her guardian) who holds any real estate in partnership with any person or persons, by force of any last will and testament, shall make any application to the judge of probate of wills in the county where the will was proved, for a division thereof, it shall and may be lawful for such judge to order the whole of the real estate so devised (or that part of it, the partition whereof is requested) to be divided to and among the devisees according to the will of the testator, by five or three discreet freeholders to be appointed by the said judge, notice being first given to all concerned, to be present at the making such partition, if they see cause: which partition or division being made and returned to the judge, under the hands of the committee, or the major part of them, upon oath, to their fidelity and impartiality therein, and by him approved, shall be valid in law to all intents and purposes; unless upon the appeal of any person dissatisfied with the partition so made, the same should be reversed or altered by the superior court of judicature.

When real estate lies in common, the judge may order a partition to be made.

And be it further enacted, That when any real estate devised by will, lies in common and undivided with other real estate, it shall and may be lawful for the judge of probate to order and direct the freeholders aforesaid, first to make partition between the estate devised, and any other land or real estate, lying in common therewith, in the same way and manner as is provided for dividing intestate estates from any other with which they may lay in common: provided that no partition shall be made when the proportion of the devisees, or any of them, shall be disputable and uncertain. Provided also, that where any of the intestated are minors, or persons non compos mentis, or otherwise incapacitated to take care of their estates, or out of the state, guardians shall be first appointed for such minors, persons non compos

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mentis or otherwise incapacitated, and some disinterested person shall be appointed by the judge to represent and act for such absent party.

And be it further enacted, That the judge of probate before he allow the account of any executor relating to his executorship, shall cause the heirs of such estate to be notified, in such manner as he shall think most proper, of the time and place for examining and allowing such account.

Accounts not to be allowed until notice be given thereof.

And be it further enacted, That any executor being a residuary legatee, may bring his action of account against his co-executor or executors of the estate of the testator in their hands; and may also sue for, and recover his equal and rateable part thereof; and any other residuary legatee shall have like remedy against the executors.

Co-executors remedy against each other.

And be it further enacted, That all writs of attachment and execution, shall run only against the goods or estate of the party deceased, in the hands of the executor and not against his body; nor shall any executor be held to special bail upon mean process, nor his own proper goods or estate be seized, or his person be arrested or taken in execution for the debts or legacies of the testator; but upon a suggestion of a waste, and return made by the sheriff nulla bona, or devastavit, in which case a scire facies shall be issued out of the clerk's office of the same court, against such executor; and scire facie being returned, if the executor shall make default of appearance, or coming in, shall not shew sufficient cause to the contrary, execution shall be adjudged and awarded against him, of his own proper goods and estate to the value of such waste, where it can be ascertained, and otherwise for the whole sum recovered, and for want of goods or estate against his body.

Executors or administrators exempted from personal arrests.

And be it further enacted, That every executor shall make payment of the debts and legacies of the testator, in specie, if such he hath, as assets in his hands; and if he hath not the same, he shall expose the estate to the creditors and legatees, to take their satisfaction thereof at their election; the value of such estate to be ascertained by appraisors mutually chosen and sworn. And where judgment and execution shall be awarded for any legacy, or for a debt due from the testator, the same proceedings shall be had thereon, as the law does

Executors to pay debts in specie.

or

or may hereafter direct for levying and satisfying executions in other cases.

Right of appeal.

And be it further enacted, That any person aggrieved at, or dissatisfied with any decree, sentence or order of any judge of probate, by virtue of this act made, shall have right to appeal therefrom, to the superior court of judicature, provided such appeal be claimed within sixty days next after the making such decree, sentence or order, or denial, and giving bond in a reasonable sum with sufficient sureties, to prosecute said appeal with effect, and to pay costs in case such decree, sentence, order or denial shall be confirmed.

Decrees, &c. reversed—
cost to be taxed for the appellant.

And be it further enacted, That if any such decree, sentence, order or denial, shall, upon such appeal, be reversed or altered by said superior court, cost shall be taxed for the appellant.

In case of an appeal, notice to be given.

And be it further enacted, That in case of an appeal being taken, the person appealing shall immediately give notice, in one of the New-Hampshire news-papers, of the appeal having been claimed and allowed, and of the term at which said appeal is to be entered for trial.

Repealing clause.

And be it further enacted, That the act intituled "An act relating to executors and administrators," be, and hereby is repealed: provided nevertheless, that all proceedings already had, by virtue of said act, shall be good and valid, and all orders and decrees of any judge of probate, in pursuance thereof, shall be carried into effect, in the same manner, as though said act had not been repealed.

Provided always, That nothing in this act contained, shall be construed to affect nuncupative wills, as provided for by a law of the late province.

Passed Feb. 3, 1789.

Descent of intestate estates, to children.

AN ACT ordering the descent of intestate estates, and empowering the judge of probate to settle the same accordingly.

BE it enacted by the senate and house of representatives in general court convened, That when any person shall die seized of lands, tenements or hereditaments, within this state, not by him devised, the same shall descend in equal shares among his children, and such as legally

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legally represent such of them as may be dead. And where there are no children or child of the intestate, the inheritance shall descend equally to the next of kin in equal degree, and those who represent them: no person to be admitted as a legal representative of collaterals, beyond the degree of brothers and sisters children.

Where there are no children, to next of kin.

And when any of the children of an intestate die before twenty one years of age, and unmarried, such deceased child's share shall descend among the surviving brothers and sisters, and such as legally represent them; but if such child die, after having arrived to the age of twenty-one years, unmarried and intestate, in the life time of the mother, she shall inherit equally with every brother and sister.

Children dying before 21 years of age and unmarried, to brothers and sisters.

Provided always, That in case any persons dying intestate, after marriage or arrival to twenty one years of age, without lawful issue, living the father, the whole estate of such intestate shall go to the father, reserving to the widow as is herein after provided. And in case the mother be living, and no father at the time of such decease, she shall be intitled to an equal share of the estate with the brothers and sisters of the intestate and their legal representatives.

After marriage and 21 years of age without issue, living the father,—to the father.

Living the mother, and no father, equally to mother, brothers and sisters.

And be it further enacted, That when any person shall die, possessed of any chattels or personal estate not bequeathed, the same shall be distributed in the manner real estates descend by this act.

Distribution.

Provided nevertheless, That such chattels, or personal estate shall stand chargeable with the payment of the debts and funeral charges of the deceased: and after payment thereof, the judge of probate shall decree one third part of the surplusage (if any there be) to the widow of the deceased forever, unless he died without issue, in which case she shall have one half thereof forever. And where the personal estate shall be insufficient to pay the said debts and funeral charges, the widow shall be intitled to her apparel, and such other of the personal estate, as the judge of probate shall think necessary, according to her quality and degree, And the real estate shall stand chargeable with the debts of the deceased over and above what the personal estate shall be sufficient to pay.

Chattels and personal estate chargeable with debts &c.

Personal estate insufficient, the real estate to be chargeable.

And be it further enacted, That the widow of any deceased

deceased

The widow intitled to dower in the real estate. ceased person, shall in all cases, be intitled to her dower in his real estate (where she shall not have been otherwise endowed before marriage) and may recover the same as the law directs.

Administration how to be granted.

And be it further enacted, That after the decease of any person intestate, the judge of probate of wills for the county wherein such person was last an inhabitant, shall grant administration of the intestate's estate unto the widow or next of kin to the intestate (upwards of twenty-one years of age) or to both, as the said judge shall think best, within thirty days. And an inventory of all the estate of the deceased, shall be taken within three months by three suitable persons appointed for that purpose, and sworn before the judge or a justice of the peace to their fidelity and impartiality therein.

Upon refusal, administration to be granted to one or more of the principal creditors.

And after the expiration of thirty days from the death of any person intestate, if the widow or next of kin, neglects to apply for administration, the said judge shall cause them to be cited to take the same, and if they neglect or refuse to administer accordingly, he shall grant administration to one or more of the principal creditors or others on their refusal, as he shall think proper. And every administrator shall, before he or she enters upon the execution of that trust, give bond to the judge of probate with sufficient sureties in a reasonable sum, upon condition among other things, to return to the said judge a true inventory of the deceased's estate upon oath, within three months from the date of the bond, to administer said estate according to law, and to render to the judge of probate a just and true account of administration within one year. And after payment of debts, funeral expences and charges incurred in settling any estate (to be allowed by the said judge) he shall cause the residue to be divided, and partition thereof to be made among the widow, children and grand children, or heirs, as this act directs, unless any of them have had estate of the intestate in his lifetime, or been advanced in settlement, which shall be taken into consideration and allowed for a share, or deducted from it according to the value thereof.

And any deed of lands or tenements made for love or affection, or where any personal estate delivered a child, shall be charged in writing, or by his or her order, or a memorandum made thereof, or delivered ex

pressly

pressly for that purpose, before two witnesses, who were bidden to take notice thereof, the same shall be deemed and taken as an advancement to such child or children to the value thereof, within the intent of this act.

Deeds of land &c. when charged, how to be deemed &c.

And the judge of probate shall appoint five free holders to make distribution of the real estate of any intestate, which being made and returned to the judge under their, or the major part of their hands upon oath to their fidelity and impartiality therein, and accepted and allowed by the said judge shall be valid. And the dower of widows in intestate estates that are solvent, after the expiration of their term therein, shall be distributed in like manner among the heirs.

Five free-holders to make distribution.

Provided nevertheless, That the surplusage of every intestate estate, after the payment of debts and charges as aforesaid, shall be subject to the support of each child until he or she shall arrive to the full age of seven years, and after that age, each child shall receive his or her support out of his or her particular share: the account of said support to be allowed by the judge of probate. And every one to whom any share of any intestate estate shall be allotted, shall give bond to the judge to pay to the administrator, his or her rateable proportion of any debts that shall afterwards be made to appear against said estate, and of the charges of administration, and maintenance and support of the children under seven years of age.

Each child to be supported out of surplusage till seven years of age, after that, out of his or her share.

Provided further, and it is enacted, That where any real estate of an intestate cannot be divided among all the children, or their legal representatives, without great prejudice to, or spoiling the whole, and being so represented and made to appear to the judge of probate, he may decree the whole to the oldest son, if he will accept it, or to the oldest and any other of the sons who shall agree to accept it, or to any one or more of the sons successively, and upon their refusal, or if there be no sons, to the oldest daughter, or upon the oldest and any other of the daughters who will accept it, or on any one or more of them successively; and in case the intestate left no issue, upon any one or more of the collaterals in equal degree, preference being given to the male heirs: he, she, or they, paying to their co-heirs their proportionable shares of the true value thereof upon an impartial

Real estate may be decreed to the oldest son when it cannot be divided without damage.

praisement of the same, to be made by three freeholders, under oath, appointed for that purpose by the judge of probate, or giving good security to pay the same at such periods as the judge shall limit, with interest 'till paid.

The judge of probate may order his or her dividend to be set off.

And be it further enacted, That the judge of probate may, upon application of any heir to any intestate estate, order his or her dividend or proportion of the real estate to be distributed and set off to such heir, by a committee of five freeholders as aforesaid, he or she giving bond with sufficient sureties, to pay his or her rateable part of the debts, charges of administration, and maintenance of children under seven years of age, as aforesaid.

When any tract of land &c. is of greater value than either party's part, the same may be assigned to one of the parties.

And be it further enacted, That when any tract of land, messuage, and other tenement, shall be of greater value than either party's part or share in the estate to be divided, and cannot be sub-divided, or part thereof assigned to one, and part to another (without injury or inconvenience) the same may be settled or assigned to one of the parties, such party paying such sum or sums of money, to the party or parties, as by means of the assignment, shall have less than their share of the real estate, as the committee appointed to make partition, shall award.

Real estate in common or undivided, how to be severed or divided.

And be it further enacted, That the respective judges of probate within this state, be, and hereby are directed and impowered, when they make out their warrants for the division of the real estate of any person dying intestate, to and among the heirs, or for assigning the widow's dower where such estate, or any part thereof, lies in common or undivided with the real estate of any other person, to direct the committee named in such warrant, first to sever and divide the intestate's estate from the estate with which it lies in common as aforesaid: the said committee to give timely notice to all parties interested to be present, if they see cause; and such division so made and accepted by the judge, and recorded in the probate office for the same county, shall be binding upon all parties interested.

Provided that where any minors, persons non compos, or otherwise incapacitated to take care of their estates, are interested in either of the estates, guardians shall be appointed over them. And if any person interested

interested is out of this state, the judge shall appoint some discreet person to represent and act for such absent party, before such division is made. Guardians to be appointed.

Provided also, That before the order for such partition or severance be issued, it be made to appear to the judge of probate, that the several persons interested in such estate, if living within this state, or the attorney of such as are absent and have attornies within the state, have been notified of such partition, and have had opportunity to make exceptions to the same. Before partition, the parties to be notified.

And be it further enacted, That when division of any intestate estate, or partition of such estate, lying in common with the estate of any other person, shall be caused to be made by any judge of probate, according to the method before prescribed, and any of the parties interested shall neglect or refuse to pay their just proportion of the charge which may attend such division or partition, it shall and may be lawful for the judge to issue a warrant of distress against any delinquent or delinquents interested as aforesaid, provided an account of such charge be first laid before the judge, and the just proportion of each party interested, be by him settled and allowed, they having been notified to be present at such settlement and allowance. Partition being made, & either person refusing to pay their proportion, the judge may issue his warrant of distress.

And be it further enacted, That every administrator shall be held to account with the judge of probate for the personal estate of the deceased, as the same shall be appraised, unless the judge shall order the same, or any part thereof, to be sold at public auction, or private sale, as he shall think will best serve the interest of all concerned; and the administrator shall account for the same accordingly. Administrators to be accountable to the judge of probate for personal estate as appraised.

And be it further enacted, That when any man and his wife, shall be seized of any real estate in her right, in fee simple, and issue shall be born alive of the body of such wife, that may or might inherit the same, and the wife die, the husband shall have and hold such estate during his life, as tenant by curtesy; any thing in this act to the contrary, notwithstanding. The husband to hold by curtesy during his life.

And be it further enacted, That when any person shall die intestate, having estate in several counties in this state, administration thereof shall be granted of the whole, by the judge of probate in the county where the deceased was last an inhabitant. Administration to be granted in the county where the deceased was last an inhabitant.

If not an inhabitant of this state, then in the county where the greatest part of the estate may happen to be.

Heirs or guardians to be notified before licence is granted for the sale of any intestate estate.

Oath of administration.

Persons alienating any goods, &c. to be chargeable.

Persons suspected of embezzlement to be sworn.

And in case of a person's dying intestate, who was not an inhabitant of this state, but was possessed of real or personal estate within the same, at that event, administration of the same shall be granted by the judge in the county where the greatest part thereof shall happen to be.

And be it further enacted, That when application shall be made to any judge of probate for licence to sell any intestate estate, or any part thereof, for the payment of the demands against the same, before he grants such licence, he shall cause the heirs to said estate, or their guardians, to be notified thereof, and at what time and place they may be heard concerning the same. And if they will give bond with sufficient sureties for the payment of said demands, licence shall not be granted; otherwise the judge shall grant licence to sell so much as to him shall appear necessary, at public auction. And the administrator or administrators shall, upon taking the licence, or previous to the sale, take the following oath :

I *A. B.* do solemnly swear, that in disposing of the estate of *C. D.* late deceased, or such part thereof as I have licence to sell, I will use my best judgment in fixing on the time and place of sale, and will exert my utmost endeavors that the same shall be sold in such manner as will be of the greatest advantage to the heirs of said estate, and that without any sinister or selfish views whatever.

And if such oath be taken before a justice, the administrator shall return a certificate thereof from the justice to the judge, before he allows the administrator's account.

And be it further enacted, That if any person or persons, before taking the administration of any intestate estate, shall embezzle or alienate any of the goods or chattels belonging to such estate, every such person shall stand chargeable, and be liable to the actions of creditors or other persons grieved, as being executors in their own wrong, to double the amount or value of the articles so alienated or embezzled.

And be it further enacted, That each judge of probate in his county, be and hereby is fully empowered to call before him, and to examine upon oath, any person suspected and complained of by any executor or administrator,

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tor, heir, creditor, legatee, or other person having lawful right or claim to the estate of any person deceased, to have concealed, embezzled or conveyed away any of the money, goods or chattels of the deceased, for discovery of the same. And if the person suspected and complained of, refuses to appear before the said judge, or appearing, refuses to be examined, or to answer interrogatories upon oath, respecting said estate, it shall and may be lawful for, and the said judge is hereby empowered to commit such person for refusing, unto the common gaol of the county, there to remain until he or she shall consent to be examined, and answer interrogatories as aforesaid, or be released by the complainant, or by order of the superior court of judicature.

And be it further enacted, That each judge of probate within this state, in his county, shall have power, and is hereby authorized to grant administration, de bonis non, when an administrator shall be dead, or absconded, or become non compos mentis, or be otherwise incapacitated to carry on the administration, not having settled the estate.

The judge of probate to grant administration de bonis non.

And be it further enacted, That each judge of probate, before he makes a decree of allowance of the account of any administrator of an intestate estate, shall cause a major part of the heirs to such estate, or their guardians, to be notified that such account is exhibited, and when and where they may be heard thereon.

Heirs or guardians to be notified when accounts are exhibited for allowance

And be it further enacted, That in case any creditors to any estate, shall neglect to exhibit his or her demand against said estate, to the executor or administrator, within the term of two years next after proving the will, or taking administration, if such creditor is an inhabitant of this state, or within three years, if living out this state, such demand shall be extinguished, and the creditor totally barred from recovering the same—saving to persons in captivity, a further allowance of one year after the impediment is removed.

Creditors excluded who do not bring in their claims.

And be it further enacted, That where two or more persons administer on any intestate estate, and one or more of them take the greatest part of the estate into his, her, or their hands, and refuse or neglect to pay the debts and funeral charges of the intestate, or refuse to account with the other administrator, he or she may bring an action of account against the other adminis-

One administrator may bring an action of account against another.

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trator or administrators, and recover his or her proportionable part of such estate.

Former settlements of any estate not to be affected by this act.

And be it further enacted, That nothing in this act shall affect any settlement or distribution of any estate heretofore made within this state.

Right of appeal.

And any person aggrieved at, or dissatisfied with any decree, sentence or order of any judge of probate, by virtue of this act made, shall have right to appeal therefrom, to the superior court of judicature : provided such appeal be claimed within sixty days next after the making such decree, sentence, order or denial, and giving bond in a reasonable sum, with sufficient sureties, to prosecute said appeal with effect ; and to pay costs, in case such decree, sentence, order or denial, shall be confirmed.

Any decree reversed, cost to be taxed for the appellant.

And be it further enacted, That if any such decree, sentence or denial shall, upon such appeal be reversed or altered by the supreme court of probate, cost shall be taxed for the appellant.

Notice to be given of an appeal.

And be it further enacted, That in case of an appeal being taken, the person appealing shall immediately give notice, in one of the New-Hampshire news-papers, of the appeal having been claimed and allowed, and of the term at which said appeal is to be entered for trial.

Administrators exempted from personal arrest.

And be it further enacted, That all writs of attachments and executions shall run only against the goods or estate of the party deceased, in the hands of the administrator, and not against his body, nor shall any administrator be held to special bail upon mean process, nor his own proper goods or estate be seized, or his person arrested or taken in execution for the debts of the intestate, but upon suggestion of a waste and return made by the sheriff nulla bona, or devastavit, in which case a scire facias shall be issued out of the clerks office of the same court against such administrator ; and scire facia being returned, if the administrator shall make default of appearance, or coming in, shall not shew sufficient cause to the contrary, execution shall be adjudged and awarded against him of his own proper goods and estate, to the value of such waste, where it can be ascertained and otherwise for the whole sum recovered, and for want of goods or estate against his body.

And be it further enacted, That every administrator shall

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shall make payment of the debts of the intestate in specie, if such he hath, as assets in his hands, and if he hath not the same, he shall expose the estate to the creditor to take his satisfaction thereof at his election, the value of said estate to be ascertained by appraisers mutually chosen and sworn. And where judgment and execution shall be awarded for any debt due from the intestate, the same proceedings shall be had thereon as the law doth or shall hereafter direct for levying and satisfying executions in other cases.

Administrators to pay debts in specie.

And be it further enacted, That the several judges of probate in their respective counties in this state, when and so often as there shall be occasion, be and hereby are empowered to allow of guardians that shall be chosen by minors of fourteen years of age and upwards, and to appoint guardians for such as shall be within that age taking sufficient security of all such guardians for the faithful discharge of their trust according to law, and to account, either to the judge or minor, when such minor shall arrive at full age, or at such other time as the judge upon complaint to him made, shall see cause.

Judge of probate to appoint guardians.

And be it further enacted, That the act intituled an act for the settlement and distribution of the estates of intestates, be and hereby is repealed.

Repealing clause.

Provided nevertheless, That all proceedings already had, by virtue of said act, shall be good and valid, and all orders and decrees of any judge of probate in pursuance thereof, shall be carried into effect in the same manner as though the same had not been repealed.

All former proceedings to be good & valid.

AN ACT to confiscate the estates of sundry persons therein named. Passed Nov. 28, 1778.

WHEREAS John Wentworth, Esq. Samuel Holland, Esq. George Meserve, Esq. John Cockran, Esq. Thomas M'Donough, Esq. William Johnson Ryland, James M'Masters, John M'Masters, Benning Wentworth, gentlemen, Robert Luist Fowle, Stephen Holland, Esq. Edward-Goldstone Lutwyche, Esq. Samuel Cummings, Esq. Benjamin Whiting, Esq. William Stark, Esq. John Stinson, Zacheus Cutler, John Quigley, Esq. Daniel Farnsworth, Josiah Pomroy,

Preamble.

roy, Elijah Williams, Esq. Breed Batcheldor, Enos Stevens, Simon Baxter, John Brooks, Crean Brush, Samuel Tarbell, and James Rogers, Esq. have, since the commencement of hostilities between Great-Britain and the United-States of America, left this, and the other United States, and gone over to, and joined the enemies thereof, and have to the utmost of their power, aided, abetted and assisted the said enemies, in their cruel designs of wresting from the good people of said states, their liberties, civil and religious; and of taking from them their property, and converting the same to the use of their said enemies, whereby they have justly forfeited all right to protection from either of said states, and also their right to any farther enjoyment of their interest and property, being within this state :

BE it therefore enacted by the council and house of representatives, and it is hereby enacted, That the whole estate, real and personal, of the said John Wentworth, Samuel Holland, George Meserve, John Cockran, Thomas M'Donough, William-Johnson Ryfam, James M'Masters, John M'Masters, Benning Wentworth, Robert-Luist Fowle, Stephen Holland, Edward-Goldstone Lutwyche, Samuel Cummings, Benjamin Whiting, William Stark, John Stinson, Zacheus Cutler, John Quigley, Daniel Farnsworth, Josiah Pomroy, Elijah Williams, Breed Batcheldor, Enos Stevens, Simon Baxter, John Brooks, Crean Brush, Samuel Tarbell, and James Rogers, and of each and every of them, lying and being within this state, be and hereby is declared to be forfeited to this state, and that the same be for the use thereof.

And be it further enacted by the authority aforesaid, That Col. Samuel Folsom, Major George Gains, and Mr. Robert Smith, or any two of them, be and are hereby appointed to be a committee within the county of Rockingham, to enter into, and take possession of all and singular the estates, real and personal, of the aforesaid John Wentworth, Esq. and others named in the preamble of this act, forfeited as aforesaid, for the use of this state, which may be found situate, lying and being within the county of Rockingham, aforesaid.

And that Major Caleb Hodgdon, Mr. John-Burnham Hanson, and Col. Joseph Badger, or any two of them, be and they are hereby appointed to be a committee within

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within the county of Strafford, to enter into and take possession of all and singular the estates real and personal of the aforesaid John Wentworth, Esq. and others named in the preamble of this act, forfeited as aforesaid, for the use of this state, which may be found situate, lying and being within the county of Strafford, aforesaid.

And that Col. Moses Nichols, James Underwood, Esq. and Col. Noah Lovewell, be, and are hereby appointed to be a committee within the county of Hillsborough, to enter into and take possession of all, and singular the estates, real and personal, of the aforesaid John Wentworth, Esq. and others, named in the preamble of this act, forfeited as aforesaid, for the use of this state, which may be found situate, lying and being within the county of Hillsborough, aforesaid.

And that Benjamin Giles, Esq. Major Timothy Ellis, and Mr. Elijah Babcock, or any two of them, be and are hereby appointed to be a committee within the county of Cheshire, to enter into, and take possession of all, and singular the estates, real and personal, of the aforesaid John Wentworth, Esq. and others named in the preamble of this act, forfeited as aforesaid, for the use of this state, which may be found situate, lying and being within the county of Cheshire aforesaid.

And that Francis Worster, Samnel Emerson, and Charles Johnson, Esq's. or any two of them, be and are hereby appointed to be a committee within the county of Grafton, to enter into, and take possession of all, and singular the estates, real and personal, of the aforesaid John Wentworth, Esq. and others, named in the preamble of this act, forfeited as aforesaid, for the use of this state, which may be found situate, lying and being within the county of Grafton, aforesaid. And that the several committees aforesaid, make out fair inventories of all such estates, real and personal, as they may enter into, and take possession of as aforesaid, and return the same to the general court for the time being. And all selectmen, and all other persons whatsoever, that may have in their possession any of the estates aforesaid, taken by them in pursuance of any act, resolve, or order of this state, are hereby directed to deliver the same to the committees aforesaid, within their respective counties.

And the said respective committees are hereby empowered

powered and directed to sell at public auction, such personal estate as may come to their hands by virtue of this act, and account for the same to the general court. And the several committees aforesaid, are hereby required, before they enter upon their office aforesaid, to be sworn before some magistrate to the faithful discharge of their duty.

Provided nevertheless, That the several committees aforesaid, after taking such inventories, shall leave out of the personal estate such articles as they shall deem necessary for the use and support of any of the families of the persons before mentioned.

Passed March
1st, 1783.

AN ACT to authorize the several judges of probate within this state to liquidate the sums paid into the public treasury by trustees of confiscated estates, by them respectively appointed; to adjust the claims of the creditors against said estates, which have been or shall be returned into the treasury office by commissioners appointed by said judges respectively; and to authorize the president of the council to give orders for the payment of such claims accordingly.

Preamble.

WHEREAS the said trustees have at various times paid into the public treasury diverse sums of the late paper currency, raised by the sale of said estates, and the creditors to said estates have not yet received any benefit therefrom. And whereas the adjusting and ordering the payment of said claims by the general court, as directed in the additional confiscation act, would be attended with inconvenience, public expence and delay:

Therefore,

Judges of
probate to
liquidate the
sums paid by
trustees of
confiscated
estates.

BE it enacted by the council and house of representatives in general assembly convened, and by the authority of the same, That the several judges of probate in this state, be, and hereby are authorized to liquidate by the scale of depreciation, the several sums paid into said treasury by the trustees by them respectively appointed, according to the times said sums were paid there, and to receive of the treasurer the list of claims against said estates which have been, or shall be returned into his office by commissioners by them respectively appointed, and to adjust and certify the same to the president of

of the council, who is hereby authorized to give order on the treasurer, directing him to issue notes for the same, carrying interest from the time the said sums were paid into the treasury, on the same footing with the other public securities of this state. And the treasurer is hereby authorized and impowered, on receiving such orders, to issue accordingly notes for the payment thereof, and he is hereby directed to pay the same accordingly; but if any of said estates are insolvent, the said judges respectively, shall cause the said sums arising from the sale of such insolvent estates, to be averaged among all the creditors to said estate, (whose claims have been, or shall be received) in proportion to their said claims, and to certify the same to the president of the council, who is hereby authorized to order the treasurer to issue notes for such proportion, on the same footing with other securities, carrying interest from the time the money was paid into the treasury; any law to the contrary, notwithstanding.

The treasurer to issue notes.

Judges of probate to average the sums of insolvent estates.

And be it further enacted by the authority aforesaid, That the said judges be, and hereby are authorized to lengthen the time limited to commissioners by them respectively appointed, to receive such claims three months from the passing this act.

Time to receive claims lengthened.

AN ACT in addition to an act, intituled "An act to authorize the several judges of probate within this state, to liquidate the sums paid into the public treasury, by trustees of confiscated estates, by them respectively appointed, to adjust the claims of the creditors against said estates, which have been, or shall be returned into the treasury-office by commissioners appointed by said judges respectively; and to authorize the president of the council to give orders for the payment of such claims accordingly."

Passed Nov. 6, 1784.

WHEREAS in and by said act, the several judges of probate within this state, were authorized to receive of the treasurer, a list of such claims against the confiscated estates of absentees, as have been or may be lodged in their respective offices, by the commissioners appointed for receiving and examining the same, and to certify said list to the president of the then council, who was

Preamble.

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thereupon

thereupon authorized by said act to issue his orders to the treasurer for the payment thereof; and as under the present constitution of government, this provision in said act is found ineffectual, and insufficient for the purposes thereby intended:

Enacting
clause.

BE it therefore enacted by the senate and house of representatives in general court convened, and by the authority of the same it is hereby enacted, That the several judges of probate in this state, be and hereby are required to file in the office of the secretary of this state, attested copies of all such lists of claims against confiscated estates as have been or shall be lodged in their respective offices; and the secretary is hereby required to lay said lists of claims before his excellency the president, who, with advice of council, is hereby authorized to issue his orders to the treasurer for the payment of said claims, in the same way and manner as is provided in said act; and the treasurer, on receiving such orders, is hereby required to pay the same accordingly.

Passed Nov.
11, 1784.

A N A C T in addition to an act, intituled, "An act for the equal distribution of insolvent estates."

Preamble.

W H E R E A S no provision is made by said act for the sale of the reversion of the estate, in which the widow of the deceased has dower, the want of which, often lessens the value of the rest of such estate, retards the settlement thereof, and renders a second distribution of such insolvent estate among the creditors necessary: all which would be prevented, if the reversion of any such estate, wherein the widow holds, or may hold dower, might be sold at the same time, with the other real estate of the deceased:

Therefore,

Enacting
clause.

BE it enacted by the senate and house of representatives in general court convened, That the reversion of any insolvent estate, wherein the widow has, or may have dower, shall and may be subjected to sale for and towards the payment of the debts and demands against any such deceased person or persons, and may be sold in like manner as the rest of such real estate may be by virtue of said act.

F E E S.

AN A C T for altering fundry articles in the table of fees now established and used in this state. Passed Jan. 3, 1784.

WHEREAS fundry articles in the table of fees now established and used in this state, are found to be too high: Preamble.

Therefore,

BE it enacted by the council and assembly, and it is hereby enacted, That the following regulation, respecting fees, be established for the future:—that is to say, Enacting clause.

Every plaintiff, in his bill of cost, in case or cases where the defendant makes no appearance or defence, but is defaulted, shall be allowed no more travelling fees than for what he travels within the county where the court is held, in the most usual way of travelling from the place where he lives to the court. And no sheriff, or other officer serving a writ or execution, shall be allowed for more than fifty miles travel in serving and returning the same, and no more shall be allowed by way of poundage in serving executions, than six pence on the pound, for the first twenty pounds; three pence on the pound, for the second twenty pounds; and two pence from forty pounds to an hundred pounds; and one penny on the pound, for all above; any law, usage or custom, to the contrary, notwithstanding.

AN A C T in addition to, and amendment of, the acts establishing a table of fees. Passed Jan. 16, 1787.

WHEREAS an alteration of the fees of the petit-jury attending the superior court, and the courts of common pleas and courts of general sessions of the peace, and of the clerks of the several courts of common pleas and courts of general sessions of the peace in this state, is become necessary: Preamble.

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That the fees of the petit-jury, at the superior court, shall be as follows, viz. Enacting clause.

s. d.

The foreman of the jury in every civil cause, 2 6
Each

Each other juror,	s. d. 2 0
And at the court of common pleas and general sessions of the peace,	
The foreman in each cause,	2 0
Each other juror,	1 6
And each juryman attending either of the courts aforesaid, shall be paid out of the treasury of the county wherein such court is held,	0 2
per mile, for his travel to the court, and the like sum for travel home.	
And the clerks of the several courts of common pleas in this state, shall, instead of the fees now taken, be only intitled to the following fees for the articles herein mentioned, viz.	
Entry of an action,	1 0
Recording verdict,	0 6
Judgment,	0 9
Every recognizance,	0 9
Copies of all cases and papers, for each page containing 224 words,	0 8
Less than such a page,	0 4
Writ of protection,	0 9
Every execution,	1 0
Continuance,	0 6
Entering satisfaction of judgment,	0 4
Each venire,	0 2
Writ of possession,	1 6
Entering appearance,	0 3
Examining bill of cost,	0 4
Filing each paper,	0 0 1
And the clerks of the several courts of general sessions of the peace in this state, shall demand and receive, the following sums only, for the following articles, viz.	
For discharging recognizance,	0 6
For copies of cases and papers, the same as before mentioned, to be taken by the clerks of the courts of common pleas.	
For filing the same as in said courts of com- mon pleas.	

LANDS COMMON AND SEVERED REGULATED.

AN ACT to authorize and impower the proprietors of any common and undivided lands, to call meetings of their respective proprietors, and to levy and collect such sum or sums of money on their said lands as they may judge necessary; and also to transact all their other common and public affairs:

Passed July 3, 1781.

WHEREAS it is necessary that the proprietors of townships, and owners of other lands lying in common and undivided, should have power to call proprietary meetings; and to levy and collect such sums of money; from time to time, as they may judge necessary to carry on their public business; and to transact all their other common and public affairs:

Preamble.

Therefore,

BE it enacted by the council and house of representatives in general assembly convened, and by the authority of the same, it is hereby enacted, That where no particular method hath been settled and agreed upon by any body of proprietors for calling their proprietary meetings (which they are hereby authorized and impowered to do at any of their legal meetings) any justice of the peace is hereby authorized upon application of so many of said proprietors as own one sixteenth part of the rights, shares and interests of the whole, being made to him in writing, expressing their desire that he would notify and call a meeting of such proprietors, and the end and design of it; he shall issue a warrant or notification to the proprietors who are to meet, setting forth, that such application has been made, the time and place of holding such meeting, and the business to be transacted at the meeting, and shall deliver the same to one of the proprietors who made such application, who shall cause the same to be printed in the New-Hampshire Gazette, three weeks successively, and shall cause the same to be posted up in some public place within such town, parish or place where the estate lies (if within any settled town) the same time before the day of holding such meeting. And said proprietors may, at such or any other legal meeting, chuse any officers they shall judge necessary to do any business of the

Any justice of the peace upon application, may issue a warrant to call a proprietary meeting.

Proprietors may choose any officers they shall judge necessary.

proprietors,

proprietors, who shall be sworn to the faithful discharge of the duty and office to which they shall be respectively chosen; and shall continue therein, and be hereby authorized to discharge the same until others shall be chosen to succeed them respectively.

Estate of proprietors to pay their proportion.

Collectors duty.

Collectors to make sale.

And be it further enacted, That the interest and estate of every such proprietor, so lying in common, shall be liable to pay and stand charged with his part and proportion of any sum of money which at any legal meeting shall be agreed upon and voted to be raised: and those who shall be chosen to assess and proportion the same amongst the proprietors (commonly called assessors) shall set such proportion to the original right or proprietor, and commit a list thereof, with a warrant or precept, to the person chosen to collect the same, therein setting forth his duty agreeable to this act, the time for completing the collection, and to whom the money is to be paid. And such collector is hereby directed, upon receiving the same, to give notice in manner and form aforesaid, of the assessment, and where the same shall be paid and received; as also, that if payment shall not be made accordingly, the money will be levied by sale of so much of the interest and property of the proprietor or owner who shall be delinquent therein fourteen days after the last week of notice as aforesaid: after which, the said collector shall advertise so much of the delinquent proprietors or owners land for sale as will pay said taxes and the reasonable incidental charges, giving three weeks notice of such sale, at least, by publishing the same in the news-paper as aforesaid, and also by posting the same for the term aforesaid, in some public place in the town or place where said lands lie, if the same be settled, and in case the said delinquent proprietor or owner shall neglect to pay the aforesaid taxes, with the incidental charges (excepting the cost of the first advertisement of such assessment, which shall be defrayed by the proprietors) to the said collector before the sale; then the said collector shall, on the day appointed, proceed to make sale at public auction, of so much of said delinquent's land as will pay said taxes, and the reasonable incidental charges as aforesaid, provided the said sale be made between the hours of ten of the clock in the forenoon, and six of the clock in the afternoon. And the

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the said collector is hereby authorized to execute a good and valid conveyance thereof to the purchaser.

Provided nevertheless, and be it further enacted, That each proprietor or owner as aforesaid, his heirs or assigns, shall have the liberty of redeeming any of his lands sold as aforesaid, at any time within the term of two months after the sale thereof as aforesaid, he or they paying to the purchaser a sum amounting to the real value of what the land sold for, the interest therefor to the time of payment, and all reasonable charges.

Liberty for redemption.

And that all persons actually engaged in the war in the service of the United States of America, or in captivity, being out of the state, or on public business out of this state, their heirs, executors, administrators or assigns, shall have the like liberty of redeeming any of their lands sold as aforesaid, at any time within the term of six months after the said impediment shall be removed, they paying the sum, interest and charges, as aforesaid. And all votes at the said proprietors meetings shall be computed according to the interest of the voters. And any body of proprietors at any legal meetings as aforesaid, are hereby authorized to confirm, ratify and establish any grants, conveyances, votes and transactions by them designed and intended to be made, done, performed or transacted, agreeable to such design, intention and aim, notwithstanding any want of legal form, or proper terms, or any defect of process relative to the same.

Persons absent shall have the liberty.

Proprietors may confirm and grant, &c.

And whereas it may so happen that new townships and tracts of land may be divided and severed among the proprietors thereof, and it may be necessary that such proprietors levy taxes upon such lands as are or may be laid out and divided into lots, in order to fulfill the terms and conditions of the grants or charters by which said lands are holden :

Therefore, be it further enacted, That when it shall so happen that there is not common land sufficient to satisfy the taxes so assessed, the lot or lots so divided and severed, that are or may be drawn or held to any right or share, shall be liable to be assessed and sold for the taxes of said right, in the same manner and under the same regulation as in and by this act is provided and directed to be done in selling and disposing of a common right, or any part thereof, and to prevent the injury

Lots may be assessed and sold for taxes.

injury which may otherwise accrue to purchasers, the assessors aforesaid shall proportion the tax laid upon each right to the several lots thereto belonging, according to the proportion of such lots to the original right, and no more, and the same may be sold by the rules and directions aforesaid.

And whereas the proprietors of many towns and places in this state, in order to carry on and perform their settlements according to the conditions and limitations of their respective grants, have been under a necessity of holding proprietary meetings, and transacting many matters in their judgment, necessary to be done for the good of the affairs of the said respective proprietors, since the acts and laws of this state, authorizing and empowering proprietary meetings, and ratifying and confirming their proceedings as such, have expired, being made temporary :

All transac-
tions valid in
law.

Therefore, be it further enacted by the authority aforesaid, That all proprietary meetings holden since the expiration of the laws of this state, authorizing and empowering proprietary meetings, and appointment of necessary officers, and all other proprietary matters and transactions whatsoever, had or done in any of the said proprietary meetings, shall be deemed and held good and valid in law, as fully and amply to all intents and purposes, as the same might or could have been, had the said expired acts and laws of this state, been in full force until this time.

Provided nevertheless, That nothing in this act contained, shall extend, or be construed to extend, to charge any proprietor who has fully complied with the terms, conditions and duties required or stipulated in the grant or charter under which he holds his interest therein, towards satisfying and discharging such terms, conditions and duties, required of any other proprietor who hath not fully complied with such terms, conditions and duties, as aforesaid.

Passed Nov.
10, 1784.

AN ACT in addition to an act, intituled "An act to authorize and empower the proprietors of any common and undivided lands, to call meetings of their respective proprietors, and to levy and collect such sum or sums of money on the said lands, as they may

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may judge necessary ; and also to transact all their common and public affairs, passed the third of July, in the year of our Lord, *one thousand seven hundred and eighty-one.*

WHEREAS in and by said act, it is enacted, that when new townships and tracts of land are divided and severed among the proprietors thereof, and it may be necessary that such proprietors levy taxes upon such lands as are, or may be laid out and divided into lots, in order to fulfil the terms and conditions of the grants or charters, by which said lands are holden, the lot or lots so divided and severed, that are, or may be drawn or held to any right or share, shall be liable to be assessed and sold for the taxes of said right, but no provision is made in said act for assessing said lots for any other purpose, which is often found necessary :

Preamble.

BE it therefore enacted by the senate and house of representatives in general court convened, That when such townships or tracts of land, are so divided and severed, and the said proprietors shall find it necessary to raise any sum of money for the defraying any proprietary charges, and at any legal meeting of such proprietors, shall agree upon and vote to raise such sum, and there is not common land sufficient to satisfy the same; the lot or lots so divided and severed that are, or may be drawn or held to any right or share, shall be liable to be assessed and sold for their proportion of the taxes of said right, in the same manner as in and by the said act is directed to be done in selling of a common right, or any part thereof, and that at all such meetings every holder of any of said lands, shall be admitted, and have a right to vote according to their respective interest.

Enacting clause.

And whereas, it often happens that more than one person is interested in a right, or proprietors share of land, or a lot, part of such right held in common and undivided, and one or more being owner or owners of such land, shall pay his, her and their proportion of such taxes according to their interest, and some other owner or owners in the same land, being delinquent in paying their proportion of such taxes, shall occasion some of such lands to be sold for the unpaid taxes :

Therefore, be it enacted, That all lands sold in such cases, shall be deemed, judged, and taken as part of the interest or share of the delinquents, according to the quantity and quality of the whole.

Lands sold shall be deemed as part, &c.

AN

Passed March 13, 1778. **AN ACT** in addition to the laws of this State now in force for preventing trespasss.

Preamble.

WHEREAS the acts and laws already made for preventing trespasss, hath been found ineffectual for that purpose, so that a further provision is necessary to be made :

BE it therefore enacted by the council and house of representatives in general court assembled, and by the authority of the same, That from and after the publication of this act, no person or persons, do, or shall cut, fell, destroy or carry away any trees, wood, timber or underwood whatsoever, standing, lying, or growing on the land of any other, s or off, or from the commons of any town, other than that to which he or they doth, or do belong, or within the same town, having no right there, without leave or licence from the major part of the proprietary of such commons, or the owner or owners of the land whereon such trees, timber, wood, or underwood, was standing, lying, or growing ; or that shall cut out, or alter the mark of any mill-log, or logs, in any river, or mill-dam ; or that shall saw, or cut into any sort of lumber, any log or logs that is not their own property, without the owners leave or licence, on pain that every person so cutting, felling, destroying, or carrying away the same, or cutting out, or altering, or sawing any log or logs, or shall be aiding and assisting therein, shall for every such trespasss, forfeit and pay to the parties injured, or trespassed upon, the sum of forty shillings for every tree or log of one foot over ; and for all trees or logs of greater dimensions, three times the value thereof, besides forty shillings as aforesaid, and twenty shillings for every tree or pole under the dimensions of one foot diameter ; and for other wood, or underwood, treble the value thereof ; which several penalties, forfeitures and damages, shall and may be recovered by action, bill, plaint, or information, upon conviction of the trespasser or trespassers, as is hereafter specially provided and enacted, before any justice of the peace, if the penalty or damage exceed not forty shillings ; but if it be above that value, then before the court of common pleas.

And be it further enacted, That if any person or persons, shall throw down, or leave open any bars, gates, fence or fences, belonging to, or inclosing any lands held in propriety or common, or belonging to any particular person

person or persons within any town in this state, or that shall dig up or carry away any stones, ore, gravel, clay or sand, belonging to the proprietors of any common land, or to any particular person or persons as aforesaid, every such common offender shall for every such trespass, upon conviction thereof, as in and by this act is hereafter provided, forfeit and pay treble damages to the party or parties injured thereby; and also a sum not exceeding five pounds, according to the nature or aggravation of the trespass; to be recovered in manner as aforesaid.

And forasmuch as it is very hard and difficult to detect and convict any trespasser or trespassers against this act, in the ordinary method or course of the law, because the trespasses are generally committed where positive evidences can scarcely ever be had:

Be it therefore enacted by the authority aforesaid, That in case any dispute arise, upon any action, bill, plaint or information brought as aforesaid, where the plaintiff, complainant, or informer, shall charge the defendant in trespass, for cutting, felling, destroying, or carrying away any particular tree or trees, parcels of timber, wood, or underwood, or for throwing down or leaving open any fence or fences, gates or bars, or for digging up, or carrying away, any stones, ore, gravel, clay or sand, turf or mould, or cut out, or alter the mark of any mill-log, or logs, in any river, or at any mill-dam, or on the land; or cut or saw into any sort of lumber, any mill-log or logs that is not their own property, without leave of the owner as aforesaid, or of being aiding or assisting therein; then, and in such case, if the plaintiff, complainant or informer, his agent or attorney, shall make oath (bona fide) that there hath been cut, felled, destroyed or carried away, so many trees or logs, marks of logs cut out or altered, or sawed, or cut into any sort of lumber, or carried away such and so many trees, parcels of wood, or underwood, or that any fence or fences, gates or bars, have been thrown down or left open, or that any stones, ore, gravel, clay or sand, hath been dug up or carried away, as mentioned in the writ, and that he suspects the defendant to have committed the said trespass; and although the plaintiff, complainant, or informer, may not be able to produce any other evidence thereof, than such circumstances

cumstances as render it highly probable in the judgment of the court or justice that shall try the cause, or before whom the trial is ; then, and in every such case, unless the defendant shall acquit himself upon oath (to be administered to him by the court or justice that shall try the cause) the plaintiff shall recover of the defendant, damages and costs, but if the defendant shall acquit himself upon oath as aforesaid, the court or justice may and shall enter up judgment for the defendant, to recover against the plaintiff, his double costs occasioned by such prosecution.

Passed Nov.
26, 1778.

AN A C T to prevent trespases upon the waste lands within this state.

Preamble.

WHEREAS sundry evil-minded persons, taking advantage of the present distressing situation of the public affairs of this state, have since the commencement of the present war, without colour of right, entered into and taken possession of divers tracts of waste land within this state, being either unappropriated lands, or lands heretofore belonging to those persons who since the commencement of the present war, have gone from this or any other of the United States, and joined the enemies thereof : For remedy whereof, and for preventing the like evil for the future :

BE it enacted by the council and assembly, and it is hereby enacted, That no person or persons shall hereafter presume, without leave of the legislature of this state, to enter into or take possession of any of the waste lands within this state, being either unappropriated lands, or lands belonging to or forfeited by those persons who since the commencement of the present war have gone from this or any of the United States, and joined the enemies thereof ; or to continue in the possession or occupation of any of the lands aforesaid, entered into and taken possession of, without colour of right as aforesaid, for the space of three months after the passing of this act, on penalty of forfeiting the sum of one hundred pounds for each offence, to be recovered by indictment of the grand jury ; the one half for the use of this state, and the other half to the use of the person who shall give information thereof to the grand jury.

And

And no possession being obtained or held as aforesaid, shall be of any avail in law in favour of such possessor.

AN ACT for the more easy partition of lands, and other real estate. Passed Feb. 4, 1789.

WHEREAS the partition of lands and other real estate, is often prevented or delayed by reason that infants, or others, under disability of making partition by mutual consent and deed, are interested; or that the parties concerned are numerous, live remote from each other, and some of them are sometimes unknown: For remedy whereof,

Preamble.

BE it enacted by the senate and house of representatives in general court convened, That upon the application of any person or persons interested with others in any lot, tract or parcel of land, or other real estate (by themselves, their agents, attornies or guardians) to the judge of probate of wills for the county in which such land or real estate, or the greater part thereof lies, the said judge be, and he hereby is, empowered to cause partition of such land, or other real estate, to be made, and the share or shares of the party or parties applying, to be divided and set off from the rest, by a committee of five freeholders, to be appointed by the said judge; which division and partition being made, and returned to the said judge, under the hands of the said committee, or the major part of them, upon oath, to their fidelity and impartiality therein, and approved and allowed by him, and recorded in the probate office for such county, shall be valid and effectual, and binding to all parties.

Judge of probate empowered to cause a partition of lands, &c.

And be it further enacted, That when any tract of land, messuage, or other real estate, shall be of greater value than either party's share or proportion in the estate to be divided, and cannot without great prejudice or inconvenience be subdivided, and part assigned to one, and part to another, the same may be settled or assigned to one of the parties, he or she paying to the other party or parties, such sum or sums of money, as by means thereof, shall have less than his or their share of said estate, as the committee shall award, or giving bond

Land, messuage, &c. may be assigned to one of the parties when it cannot be divided without damage.

bond with sufficient sureties, to pay the same within such time as the said judge of probate shall limit, with interest 'till paid.

Partition being made, not to be altered until notice is given, &c.

And be it further enacted, That no judge of probate within this state, shall proceed to alter such partition until it shall be made to appear to him, that the several parties interested have had due notice of such application. (by being personally served with a copy of the petition for the partition, or left at the last place of their abode, or that the substance of said petition had been inserted in one or more of the New-Hampshire news-papers, three weeks successively) and have had opportunity to make their objections to the granting such order, and guardian or guardians shall have been appointed according to law for any minors, persons non compos mentis, or otherwise incapacitated to take care of their estates, who are interested, if within this state; and an agent or agents appointed for such as are not within, or inhabitants of this state; to be advising on his or their behalf, in the making such partition. And the committee appointed to make such partition, shall, before their doing it, cause all concerned, or their guardians or agents, to be seasonably notified of the time when they shall proceed to make such partition, that so, (if they see meet) they may be present and advising therein.

Either party refusing to pay, &c. the same to be levied by warrant.

And be it further enacted, That when partition shall be made as aforesaid, if any one or more of the parties interested shall neglect or refuse to pay his, her or their just proportion of the charges attending such partition, it shall and may be lawful for the judge of probate who ordered the same; and he is hereby authorized to cause the same to be levied by his warrant of distress, provided an account of such charges be laid before him, and the just proportion of the persons interested, settled and allowed by him, they having been duly notified to be present at such settlement and allowance.

Right of appeal, &c.

Provided nevertheless, That any party aggrieved at any order, decree or denial of any judge of probate relative to the premises, may appeal therefrom to the supreme court of probate for this state, provided that such appeal be claimed and taken within sixty days from the passing such order, decree or denial, and bond given in a reasonable sum with sureties to prosecute said appeal with

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with effect, and to pay the appellee his reasonable costs in case the said order, decree or denial be affirmed; and in case the sentence, order, decree or denial be reversed or altered, the said supreme court of probate, shall tax costs for the appellant.

And be it further enacted, That an act intituled "An act for a more easy and expeditious method of making partition of land, or other real estate held in common;" and an act intituled "An act in addition to, and amendment of, " An act for the more expeditious method of making partition of land, and other real estate held in common," be and hereby are repealed.

Repealing
clause.

AN ACT for ascertaining the waste land belonging to this state.

Passed Jan.
16, 1787.

WHEREAS it is an object of great importance to the state, that the waste or unimproved land belonging to, and the property of the state, be clearly and speedily ascertained:

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That the Hon. John M'Duffe and Josiah Bartlett, Esq's, and Archibald M'Murphy, Esq. be, and they are hereby appointed a committee with full power and authority for and on the part, and in the behalf of this state, to ascertain, settle and fix the western line of a tract of land originally granted to Capt. John Mason, commonly called the Masonian line. And to effect this purpose, the said committee shall have full power and authority to agree with the owners or claimants of said grant in running, marking and establishing said line in such way and manner as the said committee and said owners or claimants may mutually agree.

And be it further enacted, That in case it shall so happen that the said owners or claimants, and the said committee shall not agree in settling and establishing said line, then said committee shall proceed to run and mark said line, agreeably to the tenor and instruction of the original grant or grants of said tract of land, and make report thereof to the general court.

And be it further enacted, That any owner and own

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ers of any land, or other real estate, which may hereafter be sold for the payment of public taxes, shall have one year for the redemption thereof, from the time of sale instead of the time now limited for the redeeming such estate so sold, such owner or owners paying the taxes and charges, as the law in such cases directs; any law, usage, or custom, to the contrary, notwithstanding.

Passed June
28, 1787.

AN ACT to quiet all bona fide purchasers of lands, between a line crossing over lands upon a straight course, from the northeast extremity of the east line of Mason's patent, being sixty miles from the sea, on a straight line, and running to the extremity of the western side line of said patent, at sixty miles distance from the sea, on a straight line, and the curve line (so called) claimed by the persons calling themselves the Masonian proprietors, as the head line of said patent.

Preamble.

WHEREAS doubts may arise in the minds of honest settlers, and bona fide purchasers, that they may be disturbed in their possessions, if the lands between the said head line, at the end of sixty miles and the said curve line, should be recovered and taken possession of by the state:

Wherefore to remove all such doubts,

The state
not to interfere with the
titles of land
granted or
sold prior to
the first of
June 1781.

BE it enacted by the senate and house of representatives in general court convened, That all lands situate between the said curve, and straight lines, which were bona fide granted, or sold by the king of Great-Britain, or by the persons calling themselves the Masonian proprietors, or by the persons claiming the lands within the said patent, in the right of Samuel Allen, Esq. prior to the first day of June, one thousand seven hundred and eighty-six, be and hereby are quieted in the title of lands so purchased, so far as that the state shall not hereafter disturb, or interfere with such titles.

How persons
entering up-
on lands not
granted or
sold, shall be
quieted.

And be it further enacted, That such persons as have entered and made improvements, upon tracts of land between the said curve and straight lines, that have not been heretofore granted or sold, by the king of Great-Britain, the Masonian proprietors, or the heirs of Samuel Allen, Esq. such persons or inhabitants shall be quieted in their possession, upon paying to this state

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state the value of uncultivated lands in the vicinity of the same.

And be it further enacted, That the boundaries of all townships within this state, shall be, and remain as heretofore fixed and established, notwithstanding any alteration that may happen in the establishment of the head line of said patent.

Boundaries of townships to remain as heretofore fixed.

Provided nevertheless, That nothing in this act contained, shall be construed to extend to lands now claimed by persons commonly called the Masonian proprietors, or their heirs ; or the proprietors claiming under Samuel Allen, Esq. or their heirs, in their own right ; or any township granted or conveyed to, and among themselves, not bona fide conveyed to any other persons, or to any lands reserved by them, or either of them, to and for the use of themselves and their heirs.

Provido.

AN ACT to impower and authorize certain persons therein named, to convey to the persons commonly called the Masonian proprietors, all the interest and title of the said state, in, and to the lands lying between the curve line claimed by said proprietors as the head line of Mason's patent, and a straight line lately run by order of the general court of said state ; and to accept of certain securities therefor, in behalf of said state.

Passed June 18, 1788.

WHEREAS by a vote of the house of representatives concurred in the senate, it has been determined by the general court, to release to the said proprietors all the right, title, claim, interest and demand of said state, in and to the lands aforesaid, on condition said proprietors secure to the state, the payment of forty thousand dollars, in state securities, and eight hundred dollars, in specie, therefor ; and whereas the said proprietors, by their agents, have in writing, declared their acceptance of the terms and conditions aforesaid, in order to a final settlement of the controversy between the state and said proprietors, respecting the said lands : Therefore, in order, and to the intent, that said agreement may be completed,

Preamble.

BE it enacted by the senate and house of representatives in general court convened, That Thomas Bartlett,

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Dudley Odlin, and Archibald M'Murphy, Esq's. be-
and they hereby are appointed a committee or agents
on the part and behalf of the state, to release, quit
claim, and convey to the said proprietors, all the right,
title, interest, claim and demand of said state, in and
unto the lands aforesaid, with full powers and author-
ities to them or the major part of them, to make and
execute any deed or deeds for the purpose aforesaid,
which deed or deeds shall be valid and effectual in law to all
intents and purposes, to convey to said proprietors, their
successors, heirs and assigns forever, all the right, title, in-
terest, claim and demand of said state to the lands aforesaid :
and also they, or the major part of them, to receive and accept
from said proprietors, or their agents, security or securities for
the payment of the said forty thousand dollars, in state's securities,
and eight hundred dollars, in specie, as aforesaid, for and in behalf
of the state.

Passed June
18, 1788.

AN ACT to authorize and impower certain persons
calling themselves the Masonian proprietors, who
have by their agents, purchased of the state, a release
of its claim to certain lands herein after described,
to raise, levy and collect such sums of money as they
may find it needful to raise for certain purposes
therein expressed, by sale of the said lands.

Preamble.

WHEREAS said proprietors, have by their agents, petitioned the general court, representing that at a legal meeting they appointed and impowered said agents to settle in their behalf, their controversy with the state of New-Hampshire, respecting the title to the lands between the curve line (so called) of Mason's patent, and a straight line lately run by order of the general court. That said agents have agreed upon a settlement of said controversy with said general court, by which settlement certain sums of money are to be secured and paid to said state, and said proprietors are to have a release of all the state's title to said lands. That said settlement has been, and still must be attended with the expence of considerable sums of money on the part of said proprietors, and that said sums to be paid to the state as aforesaid, are yet to be raised, all of which ought to be paid by said proprietors

proprietors in proportion to their several and respective interests and estates in said lands. But that there is a doubt whether said lands (many of which are now holden by said proprietors in severalty) can, by the laws now in force, be effectually charged therewith; and said sums coercively collected by sale of the same; praying that clear powers and authorities may be granted them for that purpose; which prayer appearing reasonable:

Therefore,

BE it enacted by the senate and house of representatives in general court, convened, That the said proprietors shall have power, and they are hereby authorized and impowered, at any legal meeting, to agree upon, and vote to raise such sums of money as they shall judge necessary then to be raised for defraying the said expences, and paying the sums to be paid to the state, as aforesaid. And the whole interest and estate of each of said proprietors in the lands aforesaid, as well all that part reserved to, or holden by each one of them in severalty, as that part of said estate which is held by each in common and undivided, not bona fide and for a valuable consideration sold and conveyed, shall be liable to pay and stand charged with his part and proportion of any sum or sums of money which may be agreed upon, and voted to be raised as aforesaid. And the assessors who shall be chosen to assess and proportion the same to and among the proprietors, shall proceed to do it according to the several and respective interest and estate of each proprietor in the lands aforesaid. And set such assessed proportion to each of said proprietors, and commit a list thereof with a warrant or precept to such person as may or shall be chosen to collect the same; therein setting forth his duty agreeably to this act, the time for completing the collection, and to whom the money is to be paid. And such collector shall, upon receiving the same, give notice of such assessment, and the place where the sums assessed will be received by him, by an advertisement published in the New-Hampshire Gazette for three weeks successively; and also that if payment shall not be made accordingly, that the money will be levied by sale of so much of any part of the estate and interest in said lands, either common and undivided, or severed, reserved or divided, of any

Proprietors to agree on the sum.

In what manner to be assessed.

Notice to be given.

any proprietor who shall continue for the space of fourteen days after the last week of notice, to neglect payment as aforesaid : after which time, the said collector shall advertise for sale, so much of the said lands common or severed, or both, of such delinquent or neglecting proprietor as will pay the sum assessed on him as his proportion as aforesaid, and the reasonable incidental charges, by giving six weeks notice of such sale, by publishing the same in the news-paper as aforesaid, and in case the neglecting or delinquent proprietor shall still neglect to pay said sum assessed to him aforesaid with the incidental charges, both which he may pay at any time before the sale : then the said collector, shall on the day appointed and advertised, proceed to make sale at public auction, of so much of said delinquent proprietor's said land either held by him in common, or in severalty, or both, as will pay said assessed sum and the reasonable incidental charges as aforesaid : Provided the sale be made between the hours of ten of the clock in the forenoon and six of the clock in the afternoon. And the said collector is hereby authorized and impowered to execute a good valid conveyance of all the estate and interest of such delinquent proprietor in the lands sold, to the purchaser or purchasers.

Time of redemption.

Provided nevertheless, and be it further enacted, That each proprietor whose land shall have been sold as aforesaid, his heirs or assigns, shall have the liberty of redeeming any of his lands sold as aforesaid, at any time within the term of two months after the sale thereof as aforesaid, he or she paying to the purchaser the full sum in money at which said land was sold, the interest thereof to the time of payment, and all reasonable charges.

How to vote.

And be it further enacted, That at all meetings of said proprietors, each proprietor shall be admitted and have a right to vote according to his or her interest, and all votes shall be computed accordingly.

Proviso.

Provided always, That nothing in this act shall extend, or be construed to extend to, or effect the title of any lands, not included between the curve and straight lines therein mentioned and described.

AN ACT empowering the superior court of judicature of this state, to hear and try any causes respecting or relating to the forfeitures of lands, within this state, heretofore granted, or that may hereafter be granted, for non-performance of the conditions of such grants, to determine and give judgment therein, that such forfeiture is, or is not incurred, and to judge and decree as a court of chancery, in certain of the causes aforesaid. Passed Feb. 6, 1789.

WHEREAS divers grants or charters of lands in New-Hampshire, have been made by the supreme executive power, to persons associating to settle and improve such lands, or to individuals applying for such grants, all of which grants were made on certain conditions of settling such lands, or making certain improvements thereon, within a limited time : and whereas some of the lands so granted, may have been, or may yet be forfeited, according to the spirit and meaning of the conditions contained in, or annexed to such grants or charters by a non-performance of said conditions ; and whereas the same may hereafter take place respecting similar grants that may be made by this state on conditions ; and whereas the liberty and safety of the subject requires, that lands so granted should not be entered upon and possessed, or re-granted upon mere suggestions without the intervention of proofs and trial by jury according to the constitution and laws to ascertain the performance or non-performance of such conditions :

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That the justices of the superior court of judicature of this state, shall have full power, jurisdiction and authority throughout this state, to hear, try and determine all causes and matters that may come before them touching the force and validity of any such grants, or the performance or non-performance of conditions annexed to, or contained in any charters or grants made, or that may be made as aforesaid, or touching or concerning any of the matters aforesaid.

And the ordinary mode of proceeding upon the matters aforesaid, in the said court, shall be as follows : Upon complaint made in writing to the chief, or one other justice of said superior court, by the attorney-general, or other person empowered by the general court,

court, in behalf of the state, that any person or persons claiming lands by virtue of any charter or grant as aforesaid, have forfeited the same by a non-performance of the conditions of the grant or charter thereof, or upon a like complaint of any person or persons claiming such land, by another and like grant of the same, and suggestion of such forfeiture as aforesaid, made in writing as aforesaid, a summons shall issue from said court, attested by the chief, or one other justice, and signed by the clerk, founded on said complaint, requiring the person or persons against whom it is made, to appear and answer thereto before said court, at the next term or session of the same, in the county where such land lies, which summons shall be served and returned as the law requires in civil causes. And in case the complaint shall be against a number of grantees claiming by the same grant, each one may appear for himself, and shall have liberty to make his several pleas; and upon such person or persons summoned as aforesaid, appearing at said court, in person or by attorney, and making his, her or their plea, or answer to said complaint, denying the matters therein alledged, or pleading performance of the conditions of the grant, and putting the issue to the country, the court shall proceed to hear and try the cause, and commit it to jury impaneled and sworn to try the issue; who shall make and return to the said court, their verdict thereon, generally or specially, as the fact to them, on the evidence, shall appear. And if the person or persons summoned as aforesaid, shall not appear, the court shall, notwithstanding, hear the evidence and proofs adduced, and try the truth of the matters alledged and set forth in the complaint, by a jury as aforesaid. Provided always, that when any person or persons, other than those employed by and in behalf of the state, who shall enter complaint, or prosecute any suit in said court, and shall not support his title, and obtain judgment in his favor, costs shall be taxed for the defendant or defendants, as in other courts. And provided also, that said complainant (not being employed by and in behalf of the state) shall, previous to a summons being issued, give bond in a reasonable sum, with sureties to pay all such costs.

And be it further enacted, That when, and so often as
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the verdict of any jury, in any such case, shall be, that the conditions of the grant have not been performed, and that the lands are forfeited, the person or persons against whom such verdict shall be found, shall have liberty thereupon to shew to said court their reasons, if any they have, which shall be in writing, why said lands, in equity and good conscience, should not be forfeited, although by the rigor of the law, a forfeiture be incurred; and said court shall judge of the same according to equity and good conscience. And if on mature deliberation, the court shall judge the reasons so given, to be sufficient, they shall briefly recite them in the judgment rendered, which shall be, in such case, that such lands in equity ought not to be, and are not forfeited; but if no reasons be given, or those offered be judged insufficient, the judgment shall be, that said lands are forfeited for the use of this state, and if any reasons were given and determined to be insufficient, the same shall also be briefly recited in the judgment. And the said court shall, within thirty days after said judgment rendered, transmit the original verdict of the jury, signed by the foreman, after the same shall have been recorded, together with a copy of their judgment, both attested by the clerk, and under the seal of the court, to the secretary of the state, to be laid before the general court at their next session.

And be it further enacted, That in all cases where the lands found and declared to be forfeited by verdict and judgment made, rendered and transmittted as aforesaid, shall not have been re-granted by the same authority, such lands shall thereupon be considered as being immediately upon and after the proceedings aforesaid, in the possession of this state, without any actual or formal entry thereon, unless some person or persons shall be in the actual possession thereof, and so much time hath elapsed during such possession, as would take away the entry of a private person.

But in all cases where the lands so found and declared forfeited as aforesaid, shall be, or have been re-granted as aforesaid, such second or other grantee or grantees, shall have liberty to appear in said court, at, and upon the rendering the judgment of forfeiture as aforesaid, and by his, her or their petition or motion, in writing, may set forth said re-grant, and his, her or their

their performance of the conditions of the same, and pray the court to be heard thereupon, and on the matters respecting the improvements by him, her or them made, on said lands, and the court shall thereupon proceed to hear the same, and try and inquire by a jury, or by hearing the proofs themselves, at the option of such party, whether said conditions have been performed by such second or other grantee or grantees, and of the improvements by him, her or them made thereon, and of the value of the same improvements; and upon such performance being found, and the value of such improvements being ascertained as aforesaid, the said court shall, as a court of equity or chancery, maturely consider, determine and decree, what to right and equity belongs, between the state and such second or other grantee or grantees, either that the state shall, before having possession of such lands, pay to such grantee or grantees, the value of said improvements, or so much of the same as shall be thought reasonable, considering the circumstances attending the taking out such second or other grant, as well as all other circumstances, or that such grantee or grantees shall pay the state the value of said lands, considered as in an uncultivated state, or as the same were before said improvements were made, and upon such payment shall hold and have all the title of the state to said lands, or the decree may be conditional, that such grantee or grantees, pay said value of said lands, and keep and hold the same as aforesaid, or else receive the value of the improvements as aforesaid, and deliver possession of said lands to the state, at the option of such grantee or grantees.

And whenever it shall be necessary to ascertain the value of such land, considered as uncultivated, or as it was before such improvements made, the same shall be inquired of, and be determined as is herein before directed, respecting the value of such improvements as aforesaid.

And be it further enacted, That the said court shall transmit such their equitable determination and decree in all such cases, together with the verdict and judgment of forfeiture as aforesaid, to the secretary as aforesaid; any thing herein before to the contrary notwithstanding.

And it is also further enacted, That the same proceedings

proceedings shall be had, equitable or conditional judgment given, and allowance made for improvements in all cases where the first grantees are parties, or where the re-grantees put in their claim as aforesaid.

And be it further enacted by the authority aforesaid, That if such grantees or re-grantees shall not comply with, and fulfill the equitable determination and decree of said court, by delivering possession of such lands to the attorney-general, or agent for the state specially appointed, within thirty days after being paid the said determined value of his, her or their improvements, and being thereto requested in case the decree shall order such compensation, or shall not pay to the said attorney-general, or agent, within ninety days after such decree made, and request the determined and decreed value of said land in its uncultivated state, or as it was before said improvements made, or secure the payment thereof in cases where such payment shall be decreed to be made by such grantee or grantees, then, and in every such case upon such neglect, the attorney-general or any agent or attorney specially appointed, may and shall bring a writ of scire facias in the same court which shall be considered, and shall be a court of chancery for that purpose, to repeal such second or other grant or charter, made without any forfeiture being found by inquest; and if the same shall be repealed, the land so re-granted shall be considered as immediately in the possession of the state, unless in cases where the entry of a private person would have been unlawful, and in such cases an action shall be brought by the state for the recovery of the possession of said land, and the state, whensoever it shall have possession of any lands which had been before granted, may grant the same.

And be it further enacted, That in all cases where a forfeiture shall have been found and declared by verdict and judgment made, rendered and transmitted as aforesaid, of lands which have not been granted a second time, if the person or persons who claimed the same by virtue of a grant as aforesaid, shall enter upon or hold possession thereof after the proceedings aforesaid, an action shall be brought by the state for the recovery of the possession, unless such lands shall have been granted by mistake, after proceedings aforesaid being had, and while the same was in possession of the state.

And be it further enacted, That the jurors attending said court and trying the matters and causes aforesaid, shall be paid out of the treasury of the state the same sum for travel as jurors have by law in other civil causes, and the foreman the sum of five shillings, and each other juror the sum of four shillings per day, for and during their attendance at said court.

And be it further enacted, That the said justices of the said superior court shall have power to issue venuries for juries to attend said courts to try all causes and matters herein before directed to be tried by a jury in the manner directed by law in civil cases. And the said court shall have power and authority, and power and authority is hereby given to the justices of said court to appoint from time to time as occasion shall require, terms in each county in this state, for hearing and trying the matters and causes aforesaid, at which any person or persons complained of as aforesaid may be summoned to appear and answer as aforesaid, or the justices of said court may adjourn from the terms now stated by law or from such terms so by them appointed for the purposes aforesaid; of which all persons concerned are to take notice and govern themselves accordingly.

ESTABLISHMENT and REGULATION of the MILITIA.

AN ACT for forming and regulating the militia within this state, and for repealing all the laws heretofore made for that purpose.

Passed June
24, 1786.

Preamble.

WHEREAS it is the duty and interest of every state, to have the militia thereof properly armed, trained, and in complete readiness to defend against every violence or invasion whatever: and whereas the laws now in force respecting the regulation of the militia, are insufficient for those purposes:

Repealing
clause.

BE it therefore enacted by the senate and house of representatives, in general court convened, and by the authority of the same, That the several laws, clauses and paragraphs of laws relative to regulating the militia, be and hereby are repealed, and declared null and void.

And

And be it further enacted by the authority aforesaid,
That the training band, so called, shall consist of all
the able bodied male persons within the state, from
sixteen years old to forty, excepting members of con-
gress, members of the senate, and the house of repre-
sentatives for the time being, secretary of the state,
all civil officers, students of colleges and academies,
ministers of the gospel, elders and deacons of churches,
church wardens, grammar school masters, masters of
arts, people denominated quakers, selectmen for the
time being, all commissioned officers, and all non-com-
missioned officers, of more than thirty-five years of age,
who have served as such three years, shall not be com-
pelled to serve in the training band, unless they have
the offer of serving in the same, or a higher rank than
they formerly held: also, all persons employed as
masters of vessels of more than thirty tons burthen,
other than fishing vessels, and vessels coasting to and
from this to the other American states, constables, sheriffs,
deputy-sheriffs, negroes, indians and mulattoes: also,
all such physicians, surgeons, ferrymen and millers, as
the selectmen in the several towns where they reside,
may think proper to excuse, and furnish with a certifi-
cate that they ought to be excused from common and
ordinary trainings.

Training
band.

Persons ex-
empted.

And be it further enacted by the authority aforesaid,
That there shall be one colonel, one lieutenant-colonel,
and two majors, to each regiment of foot; which offi-
cers shall divide the regiments into companies, consist-
ing as nearly as may be, of sixty-eight privates, and
shall determine the rank of each company; and that
each company shall be commanded by a captain, two
lieutenants, and an ensign; the captains and subalterns
shall appoint four serjeants, four corporals, one drum-
mer, and one fifer, to each company, and shall from
time to time, direct and appoint one of their serjeants
to act as clerk.

Field-officers

*And in order to prevent, as much as possible, the in-
conveniences which may arise, from incorporating the
soldiers of different towns into one and the same company:*

Be it further enacted, That each town which can fur-
nish thirty-two privates, and the proper number of commis-
sioned and non-commissioned officers, shall be intitled to
form one company; such towns as have 96 privates, ex-
clusive

Companies
how to be
formed.

clusive of necessary officers, shall form two companies of forty-eight privates each ; and when the numbers are increased to one hundred and eighty-four, they are to form two companies of sixty-eight, and one of forty-eight privates ; and so on from time to time, making sixty-eight the full proportion of privates for a company, and forty eight the additional number for dividing it, and forming a new one. And in all towns which have several companies, if, after forming some companies of sixty-eight privates, there shall remain a surplus of less than forty-eight, they shall be divided among the other companies, as the field-officers shall think proper ; and if they amount to forty-eight privates, exclusive of the necessary number for officers, they shall be formed into a separate company : and where any town has less than thirty-two privates and a proper number for officers, they shall be joined to such other corps as the field-officers shall think proper, until they amount to that number, when they are to be formed into a separate company ; and all able-bodied soldiers belonging to places not incorporated, are to be annexed to such companies as the field-officers shall direct ; and the field-officers of the respective regiments, shall have power, from time to time, to alter, divide, and arrange the companies in their regiments, agreeable to the rules aforesaid.

Alarm list.**Persons exempted.**

And be it further enacted by the authority aforesaid, That all male persons from forty to sixty years of age and capable of bearing arms, who are exempted by the first section of this act, from common and ordinary trainings, and are not included in that part of the militia called the training band, shall constitute an alarm list (excepting only members of congress, of the senate and house of representatives, secretaries, ministers of the gospel, president, officers and students of colleges, preceptors and assistants of academies, and their students for the time being, people called quakers having certificate from the clerk of their societies, ferrymen, indians, negroes and mulattoes) and shall, in all respects, be equipped with arms and accoutrements, as is by this act directed for those of the training band : and those of the alarm list shall, by the respective brigadiers, be divided into companies, not to exceed ninety-six, nor less than thirty-two, in number : which companies so

divided

divided and formed, are to be commanded by a captain, holding the rank of colonel ; a lieutenant, holding the rank of lieutenant-colonel, and an ensign holding the rank of major ; and are to be elected by the major part of the alarm list present ; the brigadier, or such field-officer as he shall order, being present, and presiding at said election : and are to proceed to the choice of non-commissioned officers in the same manner as companies in the training band ; each company is to be provided with one drummer and one fifer.

And be it further enacted by the authority aforesaid, That the commanding-officer of each alarm company, shall, once in every six months, call his company together, and examine their arms and accoutrements ; and every deficiency of arms and accoutrements, neglect of duty, or disobedience of orders, in any of the persons who compose the alarm list, shall be punished in the same manner as by this act is provided against those of the training band.

Alarm list to be mustered twice a year.

And be it further enacted by the authority aforesaid, That every non-commissioned officer and soldier, both in the alarm list and training band, shall be provided, and have constantly in readiness, a good musquet, and a bayonet fitted thereto, with a good scabbard and belt, a worm, priming-wire and brush, a cartridge-box that will hold, at least, twenty-four rounds, six flints, and a pound of powder, forty leaden balls fitted to his gun, a knap-sack, a blanket, and a canteen that will hold one quart. Such of the training band as are under the care of parents, masters, or guardians, are to be furnished by them with such arms and accoutrements ; and such of the training band, or alarm list, as shall be unable to furnish themselves, shall make application to the selectmen of the town, who are to certify to his captain, or commanding officer, that he is unable to equip himself ; and the said selectmen shall, at the expence of the town, provide for, and furnish such person with arms and equipments ; which arms and equipments shall be the property of the town at whose expence they are provided : and if any person, so furnished, shall embezzle, or wilfully destroy the same, he shall be punished by any court proper to try the same, upon complaint made by the selectmen of said town, by being publickly whipped, not exceeding twenty stripes :

Equipage.

Those unable —to be equip'd at the expence of the town.

Penalty for embezzlem't

and

Selectmen to provide tools. and the selectmen of each and every town shall provide one-twentieth part as many spades, or iron shovels, with handles, as there are rateable polls, in said town; and an equal number of pick-axes, narrow-axes and hoes, one-third of each kind and deposit the same in some safe place for the use of the militia, upon an alarm; the expence of which is to be borne by the town: and the selectmen of each town are to provide, at the cost and charge of said town, one drum and one fife, for the use of each company belonging to said town; and are hereby empowered to tax the polls and estates of the inhabitants of their respective towns, to defray the expences which they may be compelled, in consequence of this act, to lay out.

Captains, &c. to equip themselves.

And be it further enacted, That all captains and subalterns be furnished with a half-pike, an esponton, or fusée and bayonet; and also with a sword, or hanger; and that they provide themselves with those arms, within one month after receiving their commissions, under penalty of being cashiered by sentence of a court-martial.

Train-bands —by whom returns are to be made.

And be it further enacted by the authority aforesaid, That the several captains, and commanding officers of companies, in the train bands, shall cause true and accurate returns, of their companies, to be made to the colonel, or officer commanding the regiment to which they belong, at or before the first day of March; and said colonel, or commanding officer, is to cause a proper return of his regiment to be made to his brigadier, by the first day of April; and the brigadiers are to make a proper return of their brigades to the major-general, or officer commanding the division in which said brigades may fall, on, or before, the first day of May; and the said major-general, or commanding officer of the divisions, is to lodge a return of the whole militia in this state, with the secretary, on or before the first day of June: all which are to be made annually, that the general assembly may, from time to time, be able to ascertain the military force of the state.

Alarm—by whom returns are to be made.

And be it further enacted by the authority aforesaid, That the alarm companies shall make their returns to the brigadier within whose district they may fall, in the same manner as is directed for the train band; and captains of artillery, to make returns to the colonel or commanding

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commanding officer of the regiment by the first day of May, and to lodge a return in the secretary's office by the first day of June, annually; all returns to give a state of the respective corps on the first day of January preceding the time limited for making such returns; and all companies or detachments of the train-band and alarm list shall, in time of action, upon an alarm, or on a field day, receive their orders from the brigadier, or officer commanding the brigade to which they are annexed.

And be it further enacted by the authority aforesaid,
That each captain or commanding officer of the train band, shall call his company together four times every year, to examine their arms and accoutrements, and to instruct them in the necessary exercises and manœvers; and each colonel or commanding officer of a regiment shall call his regiment together once every year, if ordered by his superior officer, for the same purpose. And each captain or commanding officer of a company, who shall neglect to call his company together as aforesaid, shall, for each neglect, pay a fine of three pounds: and each colonel or commanding officer of a regiment, who shall neglect to call his regiment together once a year, as aforesaid, shall pay a fine of ten pounds for each offence.

Each compa-
ny to be mus-
tered 4 times
a year.

Penalty.

And be it further enacted by the authority aforesaid,
That if any commanding officer shall neglect or refuse to call his regiment together on any special occasion, at such time and place as his superior officer will order, and be thereof convicted by a court-martial appointed, as in this act is hereafter provided, he shall be cashiered; and if any officer, on a training or mustering day, refuse to obey the orders of his superior officer, he shall, upon being convicted thereof by a court-martial, be cashiered.

Penalty for
not calling
regiment to-
gether.

And be it further enacted by the authority aforesaid,
That it shall be sufficient notice, for any non-commissioned officer or private to appear with his arms and accoutrements, as the commanding-officer shall direct, to be informed thereof by a non-commissioned officer, or by a notification left at his usual place of abode, which notification shall be signed by the clerk, or some commissioned officer; and if any private shall, after such notification, unnecessarily neglect to appear with his arms and accoutrements,

Notice.

accoutrements, he shall pay a fine of three shillings ; and each non-commissioned officer, for such neglect or refusal, a fine of six shillings, for non-appearance, which is to be levied by distress and sale of such delinquent's goods and chattels by warrant under the hand and seal of the captain or commanding officer of said company ; and for want thereof, upon his body ; and the clerk who is to levy the same, is to observe the same rules and regulations in making said distress, as the laws have pointed out for collecting rates and taxes, and shall have one quarter part of said fine for his trouble and customary fees. *Provided nevertheless*, That no such warrant shall be issued until fifteen days after the day of appearing, that the said delinquent may have time to make his excuse (if any he has) for his non-appearance, which is to be made to the commanding-officer of the company.

Parents, &c.
liable to a
penalty.

And be it further enacted, That parents, masters, and guardians, shall be liable for the neglect and non-appearance of such persons as are under their care (and are liable by law to train) and are to be proceeded against for the penalty, in the same manner, as by this act is provided, against other delinquents.

Officers to
yield obedi-
ence.

And be it further enacted by the authority aforesaid, That on all training and muster days every officer shall yield due obedience to his superior officers ; and every non-commissioned officer and soldier shall yield intire and due obedience to the commands and orders of their respective officers. And if any officer shall, on such days, neglect or refuse to obey the orders he may receive from his superior officer, he shall be liable to be cashiered by sentence of a court-martial, and the superior officer may immediately put such delinquent in arrest, and report him and his offence to the brigadier, if the offender is under the rank of a field-officer : and the brigadier is hereby impowered to appoint a court-martial for such trial, and to approve the sentence ; which being done, the said officer shall be deemed incapable of ever holding any military post, or office, in this state. And in case the offender is of the rank of a field-officer, or of higher rank, his offence is to be reported to the major-general, who is hereby impowered to appoint a court-martial to try such offender, and to approve the sentence ; which being done, the offender shall

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shall be deemed incapable of ever holding any military office within this state. All court-martials, appointed by the major-general, shall consist of thirteen members, the president of which is, at least, to be of equal rank with the officer who is to be tried. All court-martials appointed by the brigadier, is to consist of seven commissioned officers, the president of which is to be of the rank of captain. The members of all court-martials are to be sworn by the president, and the president is to be sworn by the member next in rank in the court-martial: and the president of every regimental brigade, and general court-martial, shall have power to administer an oath to every witness, in order to the trial of offenders.

And be it further enacted, That if any non-commissioned officer, or soldier, shall prove refractory, or disobedient, on a training or muster day, or shall insult or abuse his officers, or either of them, or treat them with disrespect or contempt, the commanding-officer present may order the offender to be immediately tried, by five commissioned officers, if so many should be present, and if not, by so many as are on the field; who are empowered to punish the offender, by ordering him to run the gantlet, or to ride the wooden horse.

Disobedience
punished.

And that no abuse of power may take place among the officers,

Be it further enacted by the authority aforesaid, That every officer, appointing a court-martial, shall appoint some suitable person to act as judge-advocate, who is to make a fair record of the whole proceedings, and the officer who appointed the same, is to lodge a copy thereof in the secretary's office, within one month after the trial, or as soon after as may be, that the members of the general court may have opportunity to examine the same, and correct any abuse which may have taken place.

Judge-advocate to be
appointed.

And be it further enacted, That when the militia of any town in this state, or any part thereof, shall be drawn forth for immediate defence of this, or any of the United States, each officer and soldier, shall provide for himself, at least three days' allowance of provisions; and the selectmen of such town shall immediately cause carriages to attend them with further necessary provisions, and utensils to cook the same, and shall continue to forward to the quarter-master or assistant, in said regiment,

Officers, &c.
to provide 3
days' provision.

giment, sufficient supplies for the part of the militia from their respective towns, until they shall be notified by the commanding officer, or by the quarter-master, that the same can be otherwise supplied. And the selectmen are directed to lay their accounts of provisions supplied by them, as also of utensils lost or damaged, and of cost of transporting the same, before the general court, for allowance; and to produce receipts from the quarter-master or his assistant, for such part thereof as shall be delivered to them respectively.

Stock of powder to be kept.

And be it further enacted by the authority aforesaid, That there shall be a stock of powder, and other ammunition, in each town provided, and constantly kept, which shall be, one barrel of gun-powder containing a hundred pounds weight, three hundred pounds of leaden balls of different sizes, and buck shot, and three hundred flints, for every sixty soldiers, and the same proportion for every greater or lesser number. And the selectmen of each town are hereby empowered to raise money by tax, on the polls and estates of their towns, for the purpose aforesaid, in the same manner as other town charges are assessed; and are to pursue the same rules for collecting the same, as are pursued in collecting other taxes.

Military watches.

And be it further enacted, That officers commanding divisions, brigades, or regiments, may appoint military watches, or guards, when an invasion of the state is apprehended, in such place, and under such regulations, as they may judge necessary; and all officers and soldiers, under their command, are to yield strict obedience to their orders and directions.

And whereas there may be frequent occasion, upon an invasion of this, or any of the United States, to draught men to serve against the enemy:

Captain to draught men

Be it therefore enacted by the authority aforesaid, That when it shall happen, that there be an immediate call for a number of soldiers to serve in such war, and a sufficient number not appearing, by voluntary enlistment, for that purpose, it shall and may be lawful for the officers commanding regiments, on receiving orders from their brigadiers, to issue warrants to the captains of the several companies, to call the same together as soon as convenient, and to draught such a proportion thereof as shall be specified in their respective warrants, unless

a sufficient number shall then appear by voluntary enlistment. And the commanding officers of alarm companies are, upon receiving orders from their brigadiers, to proceed to draught, in like manner, such number of able-bodied men as the brigadier shall direct. The number of men to be draughted, shall be apportioned by the major-general to the several brigades, and by the brigadiers to the several regiments and alarm companies in their respective brigades, and by the commanding officer of each regiment to the several companies which compose it.

And be it further enacted, That when any person draughted to serve, as aforesaid, shall refuse or neglect to make a reasonable excuse, to the acceptance of the majority of the officers of the company to which he belongs, or to pay into the hands of the officer by whom he is so draughted, the sum of forty shillings (to be paid to the selectmen for the purpose of hiring soldiers) he shall be held and taken to be a soldier in the service for which he was so draughted. And if any soldier shall neglect or refuse to march, when ordered thereto, according to the mode prescribed in this act, unless he produces a discharge from his commanding officer, or provides some able-bodied man in his stead, to the acceptance of the officer by whom he was so draughted, it shall and may be lawful for such officer, and he is hereby required, to confine said delinquent, and send him to some officer appointed to act in the service for which this delinquent was draughted.

Penalty for not serving.

And be it further enacted by the authority aforesaid, That, in the absence of the major-general, the next commanding officer shall make the appointment of men to be draughted; and, in cases of emergency, it may be done by the president and council, in the recess of the general court; and that, in all cases where the act requires any duty from an officer, the next in command (in case of the death or absence of his superior or superiors) is to perform the same.

In absence of M. Gen. the next in command to make appointment.

And be it further enacted by the authority aforesaid, That the signals for an alarm, are to be fixed by the captain-general, and may, by him, be altered from time to time, and proper notice thereof is to be by him given to the several officers; and if any non-commissioned officer or soldier shall, upon the alarm being given, unnecessarily

signals to be fixed.

necessarily neglect to appear properly armed and equipped, at such time and place as the commanding officer shall appoint, the said delinquent being either of the training-band or alarm list, shall pay a fine of forty shillings; and every soldier ordered to do duty on a guard, or military watch, who shall neglect, or refuse the same, shall pay a fine of six shillings; and all persons serving on said guards or military watches, shall be punishable for misconduct while in such service, by a court-martial to be appointed by the commanding officer, of such guard, provided he be a field-officer and in case he is not, then by the commanding officer of the regiment to which the delinquent belongs, and the commanding officer of the watch, or guard, may confine him for trial; provided nevertheless, that the punishment inflicted by sentence of the court-martial, shall not exceed running the gantlet, or riding the wooden horse.

Penalty for
refusing to
warn, &c.

And be it further enacted by the authority aforesaid, That when any non-commissioned officer shall refuse or neglect, to notify and warn any of the non-commissioned officers or private soldiers of the company to which he belongs (being thereto ordered by his superior officer) he shall pay a fine of twelve shillings.

Mode of re-
covering fines

And be it further enacted by the authority aforesaid, That every fine and forfeiture arising by breach of any article or clause of this act, for which no special mode of recovery has been pointed out, may be recovered by action, bill, plaint, or information, in any court of record. All fines and forfeitures when recovered, shall be paid into the hands of the selectmen or treasurer of the town, where such offender hath his usual place of abode, for hiring soldiers for the war, and purchasing drums, fifes, and other military equipments.

Militia to be
under the
rules of the
late Conti-
nental army.

And be it further enacted by the authority aforesaid, That in case of an actual invasion of this state, the whole of the militia thereof, that may be ordered out to oppose the enemy, shall, from the time of their marching for that purpose, be under the rules and regulations of the late Continental army; subject, however, to such orders and commands as may be given them from the legislature of this state. And the officer commanding the same, shall be amenable to, and triable by, the legislature of this state, or by such court as they may appoint, for all neglects of duty, and for all crimes and misdemeanors,

misdeemeanors, committed by him when acting within the state; as also in any other of the United States, unless he shall be annexed to an army commanded by a superior Continental general, who may have sufficient authority to try and punish the same; and in case the militia of this state, or any part thereof, shall be, at any time, ordered out to assist in defence of any other of the United States, the said militia shall be subject, from the time of marching to the time of return, to the rules and regulations of the late Continental army.

And that no failure may happen in any court-martial appointed by virtue of this act,

Be it further enacted, That all persons called to give evidence, in any case, before such court, who shall refuse to appear, or appearing, shall refuse to give evidence, shall be committed to the common gaol of the county where such court is sitting, there to remain six months, unless sooner released therefrom by the justices of the superior court; and the president is to lodge the accusation against him with the prison keeper. The oath to be administered to witnesses, in court-martial, is to be in the following form, viz.

YOU swear, the evidence you shall give, in the case now in hearing, shall be the truth, the whole truth, and nothing but the truth.

So help you GOD.

The oath administered to members of the court-martial, previous to trial, is to be in the following form, viz.

YOU swear, that you will well and truly try, and impartially determine, the cause of the prisoner now to be tried, according to the rules for regulating the militia of this state.

So help you GOD.

A N A C T in addition to an act, intituled "An act for forming and regulating the militia within this state, and for repealing all the laws heretofore made for that purpose." Passed Sept. 23, 1786.

WHEREAS the fine laid by said act, upon soldiers for not appearing on days of parade, is not sufficient to answer the good intention of the same: Preamble.

Therefore,

B E it enacted by the senate and house of representatives, in general court convened, That instead of the fine Enacting clause.

of three shillings, therein mentioned, each soldier, who after being notified as in and by said act is directed shall neglect to appear with his arms and accoutrements agreeably to the notification given him, he shall for the first offence, pay a fine of six shillings, and for the second offence, being the next in course, the sum of nine shillings, and for each offence afterwards, being in course, the sum of twelve shillings, until there shall be a due appearance of such soldier : which fines may be collected as in and by said act is directed.

MARITIME MATTERS and REGULATIONS.

Passed Nov.
26, 1778.

Preamble.

AN ACT for establishing a naval-office at Portsmouth, within the county of Rockingham, and for regulating the trade and navigation in this state.

WHEREAS it is of great importance that the trade and navigation of this state should be properly regulated, and duly attended to ; and the laws of this state already in force respecting the same, being insufficient for those purposes, and some further provision appearing to be necessary :

BE it enacted by the council and house of representatives in general court assembled, and by the authority of the same, That there be and hereby is a naval-office established within the town of Portsmouth aforesaid, for the port of Piscataqua, and the other places within this state, for the purpose of entering and clearing all ships and other vessels trading to, or from this state (the said office to be holden by some meet person to be appointed from time to time by the general court) and that all the laws heretofore in force respecting the said office, or the regulation of the trade and navigation in this state, be and hereby are repealed.

And be it further enacted, That it shall be the duty of the said officer, and he is hereby directed to take bonds of the masters or owners of all such ships or vessels trading to, or from this state, with sufficient sureties, and in adequate penalties for observing the laws respecting trade and navigation ; take manifests upon oath,

ath, of all cargoes exported and imported ; keep fair accounts and entries thereof ; give bills of health when desired ; and sign certificates that the registers for qualifying vessels to trade, have been complied with.

The fees to be taken and received in the said office, to be as follows, viz.

£. s.

For entering every ship and vessel from any port in the Massachusetts-Bay,	—	—	0	9
For clearing out any ship or vessel to the same,	—	—	0	9
For entering any ship or vessel from any other of the United States,	—	—	0	18
For clearing any ship or vessel thereto,	—	—	0	18
For entering every ship or vessel from a foreign voyage,	—	—	1	16
For clearing any ship or vessel for the same,	—	—	1	16
For every register,	—	—	1	16
For recording every register,	—	—	0	6
For endorsing every register,	—	—	0	6
For every bond,	—	—	0	6
For a bill of health,	—	—	0	9
For a cocquet,	—	—	0	6
For a permit to unload,	—	—	0	3
For every pass for the forts,	—	—	0	6

And be it further enacted, That the masters and owners of all ships and other vessels, which are decked, of the burthen of fifteen tons or upwards, shall cause the same to be registered in the naval-office aforesaid, before they proceed on any voyage ; and that the master or owners of every smaller vessel or boat carrying merchandize, provisions, naval or military stores, shall cause the same to be entered and cleared at the said office, upon penalty of forfeiting one half the value of such ship or vessel and cargo, as shall be adjudged by two meet appraisers to be appointed by the naval-officer ; and that the master of every ship or vessel which shall arrive within the port of Piscataqua aforesaid, or other place within this state, shall make report at the naval-office aforesaid, within twenty-four hours after such arrival, and shall before breaking bulk duly enter at the naval-office, and receive a permit to unlade, upon the penalty of forfeiting the sum of five hundred pounds.

And be it further enacted, That no ship or vessel shall be permitted to sail out of the port of Piscataqua aforesaid, or other place within this state, and proceed to sea.

sea, without first having duly cleared at the naval-office aforesaid, and obtained a certificate thereof from the naval-officer; and every ship or vessel which shall presume to depart from the port or place aforesaid, without having duly cleared and obtained such certificate as aforesaid, the master or owner thereof, shall on conviction thereof, forfeit and pay the one half of the value of such ship or vessel and cargo, to be appraised as aforesaid.

Provided nevertheless, That no vessel wholly employed in the fishing business which shall sail and return in ninety days, or such vessels as are only employed as wood-coasters, and carry no other article, shall be subjected to the aforesaid regulations (except taking out registers, and a pass for the forts, at the naval-office) and all open boats and small craft, that supply the rivers from day to day with fish, shall pass free, provided they carry nothing but their proper stores.

And if any master or commander of any ship or other vessel, shall fraudulently exhibit to the naval-officer, a false manifest of any inward, or outward bound cargo, or shall knowingly omit any part of the same, he shall, on conviction thereof, forfeit and pay the sum of five hundred pounds.

And be it further enacted, That the naval-officer for the time being, shall, before acting in said office, give bond in the sum of four thousand pounds, to the treasurer of this state, with sufficient sureties for the faithful discharge of the duties of said office, and take the oaths required by law of other civil officers, and shall keep a fair copy of this act constantly in his office, for the perusal of those persons who do business there, and also a table of the fees herein mentioned, hung up in his said office. And if any person employed in the naval-office, shall illegally or unseasonably delay or defer the entering or clearing of any ship or other vessel, if applied to in office hours (viz. from nine to one o'clock in the morning, and from two to four o'clock in the afternoon) he shall, on conviction thereof, forfeit and pay the sum of ten pounds.

And it shall be lawful for the naval-officer during the time of any embargo, to go or send a searcher on board any ship or other vessels, to see that the acts and resolves of the general-court of this state, be complied with,

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with, and in case of resistance, to require the aid of the high sheriff of the county where such ship or vessel may

And be it further enacted, That if the commanding-officer of the fort where the passes are directed, shall willingly or negligently suffer any ship or vessel to pass out without first having received a permit therefor from the naval-officer, he shall forfeit and pay the sum of three hundred pounds, and the chief magistrate of this state for the time being, is hereby impowered to inspect the naval-office, books and papers, as often as he shall think necessary, and see that they are regularly kept, and also to advise the said officer in cases which may be unprovided for by law.

And be it further enacted, That all forfeitures in this act mentioned, may be recovered by action of debt at the inferior court of common pleas for the county of Rockingham, by the said naval-officer, or any other person who shall prosecute for the same; the one half thereof to be for the use of the prosecutor, and the other half for the use of this state. And the said naval-officer is hereby exempted from business on the Lord's day, and on all fast and thanksgiving days, appointed by authority, and also on the anniversary of American Independence.

AN A C T in addition to an act for establishing a naval-office in Portsmouth, in the county of Rockingham, and for regulating the trade and navigation of this state. Passed July 4, 1781.

WHEREAS the act of this state now in force, is insufficient to prevent the abuse which the enemies of the United States may make of papers or clearances they may take in American prizes : Preamble.

BE it therefore enacted by the council and house of representatives in general assembly convened, and by the authority of the same, That the naval-officer in this state, be and he hereby is ordered to require the master and chief mate of all merchant vessels unarmed as well as armed, which shall be dispatched from the port of Piscataqua, or any other port within this state, to undersign their clearances in the presence of him the said naval-officer. Master and mate to undersign their clearances.

R

And

Naval officer
to insert on
clearance the
description of
the master &
mate.

And be it further enacted by the authority aforesaid
That the said naval-officer be, and he hereby is, directed to insert on the back of the clearance of all merchant vessels, unarmed as well as armed, a minute description of the persons of the master and his mate, with their age, stature, and complexion, respectively; and that he certify the same under his signature and seal of office.

Passed April
16, 1784.

Preamble.

Light-house
to be repair'd

Duties to be
collected by
naval-officer.

AN ACT for establishing a light-house.

WHEREAS it is necessary for the benefit of foreigners, as well as for the inhabitants of the United States, that a light-house should be kept at the entrance of Piscataqua harbour :

BE it therefore enacted by the council and house of representatives for said state, and it is hereby enacted, That the former light-house at the entrance of Piscataqua harbour, be immediately repaired by the selectmen of the town of Portsmouth, at the charge of this state; and also that they prepare materials for keeping a light-house there as heretofore kept, and that a person be appointed by the executive authority of this state, for the time being, to take care of said light-house, at the like charge of the state.

And for defraying the expence of said light-house,

Be it further enacted, That there be collected by the naval-officer of this state, the following duties, to commence as soon as the said light-house shall be repaired and lighted, that is to say, for all vessels from fifteen to thirty tons burthen, belonging to any of the United States, six shillings at their first entrance, which shall be for one year, and the same sum to be paid yearly afterwards. For all vessels from thirty to fifty tons burthen, belonging as aforesaid, three shillings each, at each and every entry. All vessels from fifty to one hundred tons burthen, belonging as aforesaid, six shillings each, at every entry. All vessels from one hundred to one hundred and fifty tons burthen, belonging as aforesaid, eight shillings each, at every entry. And all vessels of more than one hundred and fifty tons burthen, belonging as aforesaid, twelve shilling each, at every entry. And three times so much upon all foreign vessels, of

of the several descriptions and dimensions aforesaid. And the said naval-officer shall account and pay the same, half yearly, to the treasurer of this state.

Naval-officer to account with treasurer.

AN ACT in addition to an act, intituled "An act for establishing a light-house, passed April the ninth, one thousand seven hundred and eighty-four.

Passed Nov. 11, 1784.

WHEREAS no duty for light money is laid by said act on any vessels but such as enter and clear at the naval-office, and whereas vessels coming into the harbour for the sole purpose of anchoring, receive as much benefit from the light, as those which enter at the said naval-office :

Preamble.

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That every vessel from fifteen to thirty tons burthen, which shall come and anchor in said harbour only, without entering at said naval-office, shall pay the sum of nine pence.—Every vessel from thirty to fifty tons burthen, the sum of two shillings.—Every vessel from fifty to one hundred tons burthen, six shillings.—Every vessel from one hundred to one hundred and fifty tons burthen, eight shillings.—And all vessels of more than one hundred and fifty tons burthen, twelve shillings, for light money ; which shall be paid to the naval-officer for that purpose, before such vessel shall be permitted to pass the fort.

Enacting clause.

AN ACT for regulating pilotage in the port of Piscataqua.

Passed June 22, 1785.

WHEREAS frequent and heavy losses have been sustained, and navigation greatly injured, for the want of a well regulated pilotage in the harbour aforesaid :

Preamble.

BE it enacted by the senate and house of representatives in general court convened, That the president, with advice of council, be and hereby is impowered and requested, as soon as may be, to appoint a suitable person as a pilot for the harbour aforesaid ; and to give the person so appointed, a branch or warrant for the due execution of his office, with power of substitution, in certain

The president to appoint a pilot.

certain cases, to be therein prescribed : and such deputies as the said branch pilot shall depute, shall be by him reported to the president for his approbation.

And be it further enacted by the authority aforesaid, That the pilot and his deputies, appointed as aforesaid, shall before his entering upon the business of his office, take the following oath or affirmation, before some justice of the peace :

Pilot's oath.

YOU A. B. do swear, or affirm (as the case may be) that you will, from time to time, truly and faithfully, perform the duties of a pilot, for the harbour of Piscataqua, according to your best skill and judgment, agreeably to the law of this state.

So help you GOD.

The pilot to enter into bonds.

And the said branch pilot, and his deputies, shall enter into bonds, with sufficient sureties, to the treasurer of this state, in the sum of one thousand pounds each, for the due performance of the trust reposed in them. And the branch pilot, being commissioned and qualified, as aforesaid, is hereby impowered and directed, by himself or his deputy, to take charge of any vessel or vessels, drawing nine feet of water, or upwards (coasting and fishing vessels excepted) bound into, or out of the port aforesaid ; and shall pilot such vessel, or vessels, into and out of the port aforesaid, first shewing to the master, or masters thereof, his branch, or warrant, and acquainting him, or them, of his fees.

The pilot's limits.

And be it further enacted by the authority aforesaid, That the cruizing ground of the pilot, or his deputy, for the port aforesaid, be and hereby is limited in manner following, viz. beginning from the ragged neck, so called, in Rye, to the southwest of the harbour aforesaid ; from thence, easterly, to the middle ground, between the island of the shoals and the harbour's mouth ; and as far as the eastermost sisters, so called : and the branch pilot, and each of his deputies, shall always keep a suitable boat, in good repair.

The president with advice, to fix the fees

And be it further enacted by the authority aforesaid, That the president, with advice of council, be and hereby is impowered and requested, to determine and fix the fees of pilotage, according as the circumstances of peace or war may require, and to specify the same in his warrant ; and also, transmit the same, to the naval officer for the port aforesaid, and to be, by him, hung up in his office, for public inspection.

Provided

Provided nevertheless, and be it further enacted by the authority aforesaid, That any master or owner of a vessel, who chuses to hazard the pilotage of his own vessel out of the harbour aforesaid, shall be at liberty so to do: *Provided also,* that in case the said pilot, or either of his deputies, shall go on board any vessel, at sea, and which was bound into this harbour, that then the said pilot, or his deputy, shall be intitled to one half the fees specified in his warrant, in case the master, or owner, declines to employ him, or them; and, on refusal of payment, may sue for, and recover the same.

Master, or owner may pilot his own vessel,

Provided also, and be it further enacted by the authority aforesaid, That if any vessel shall be within the light-house of the harbour aforesaid, before any pilot shall go on board, and the master of such vessel shall then decline taking a pilot, he shall be exempt from the fees of pilotage, in the said port.

Proviso.

And be it further enacted by the authority aforesaid, That if any vessel, while under the charge and direction of the branch or warrant pilot, or his deputy, shall be lost, cast away, or run a-ground, through the unskilfulness or neglect of such branch or warrant pilot, or his deputy, then, and in that case, such branch or warrant pilot, or his deputy or deputies, shall be liable to pay the just value of the vessel and her cargo, or any proportionable damage which may be sustained thereby; to be sued for and recovered by the owner or owners, insurer or insurers thereof, in any court proper to try the same.

The pilote to make good all damages.

And to the intent that a suitable check may be had upon the pilot aforesaid, that he may be excited to due vigilance in the discharge of the duties assigned him.

Be it enacted by the authority aforesaid, That the president and council be, and they are hereby impowered, to hear and determine all complaints, exhibited against the said pilot or his deputies, or either of them, for mal-conduct in the premises; and, at their discretion, to put out or suspend any or either of them, and to appoint others in their room, laying the reasons therefor, before the general court, at the next session after such suspension or removal.

The president and council to determine all disputes.

 PENAL STATUTES.

Passed Feb. 2, 1789. AN A C T for the better observation of the LORD's day, and to repeal all laws heretofore made in this state for that purpose.

BE it enacted by the senate and house of representatives, in general court convened, That no tradesman, artificer, or any other person whatsoever, shall do, or exercise any labor, business, or work of their secular calling, (*works of necessity and mercy only excepted*) nor use any game, play or recreation on the LORD's day, or any part thereof, upon pain that every person so offending, shall forfeit a sum not exceeding forty shillings, or less than five shillings.

And be it further enacted by the authority aforesaid, That no person shall travel on the LORD's day, or any part of it, unless from necessity, or to attend public worship, visit the sick, or to do some office of charity, on penalty of a sum not exceeding forty shillings, nor less than five.

And be it further enacted by the authority aforesaid, That no taverner, retailer, or other person keeping a public house of entertainment, shall suffer any of the inhabitants of the respective towns where they dwell, or others not being strangers, or lodgers, in such houses, to abide, or remain in the houses, yards, or appendages thereof, drinking, or idly spending their time on the Lord's day, upon the pain and penalty aforesaid. And the person or persons, who shall be found so drinking or abiding in such house or dependencies thereof as aforesaid, shall each suffer the like penalty.

And be it further enacted by the authority aforesaid, That each town and district within this state, shall at the time of choosing town or district officers annually and every year appoint certain persons (being of good substance and sober life) to be tythingmen of such town or district, of which officers, no town or district shall appoint less than two, whose duty it shall be, to inform of all breaches of this act; and all such tythingmen shall take the following oath.

YOU ———, being chosen a tythingman for the town of ———, for the year ensuing, and until another

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ther shall be chosen and sworn in your room, do solemnly swear, that you will diligently attend to, and faithfully execute the duties of said office, without partiality and according to the best of your discretion and judgment.

So help you GOD.

And be it further enacted, That if any person shall, on the Lord's day within the walls of any house of public worship, or about such house, whether in the time of public service or between the forenoon and afternoon services of said day, behave rudely or indecently, he or she shall pay a fine not exceeding ten shillings, nor less than three shillings.

And be it further enacted, That the oath of any tythingman or selectman, shall be deemed full and sufficient evidence upon trial of any offence against this act, unless in the judgment of the court or justice, the same shall be invalidated by other evidence that may be produced.

And be it further enacted, That the parents of any children under age, the guardians of any minors, and the masters of servants, who shall have no parents or guardians, shall be respectively liable for the fines of their children, wards or servants, who shall be convicted of any offence against this act.

And be it further enacted, That it shall be lawful for each and every justice of the peace, to take such assistance as shall be needful, and forceably to stop and detain any person or persons, he shall suspect of travelling unnecessarily on said day, for and during such time as shall be necessary for demanding the cause or reason of such person's travelling, his name and place of abode, and receiving the answer to such demands. And in case any person shall not give satisfaction to the justice demanding the same, such justice shall have full power and authority to detain in his custody such person or persons, until a regular trial can be had.

And be it further enacted, That the selectmen of the several towns and places of this state, and the tythingmen chosen and sworn as aforesaid, be and they hereby are required to inform of all breaches of this act within their precincts. And if any person charged with a breach of this act, shall be acquitted upon trial, he shall recover costs against the complainant, unless the complainant shall be a justice of the peace, tythingman, or selectman,

selectman; and in that case no costs shall be allowed to the person acquitted.

And for the better execution of all and every the foregoing orders, every justice of the peace within the county where any offence against this act shall be committed, shall have power and authority to convene before him, any person or persons offending as aforesaid; and upon his own view, or other evidence sufficient to convict any person of such offence, to impose the fine and penalty for the same, with costs, and to restrain and commit the offender until the same be satisfied, or to cause such fine, penalty and cost, to be levied by distress, and sale of the offenders goods, returning the overplus, if any be. All fines and penalties accruing by this act, to be for the benefit and relief of the poor of such town where the offence is committed, and delivered into the hands of the selectmen or overseers of the poor for that purpose.

And be it further enacted, That any person shall have the right of appeal to the court of general sessions of the peace, from any sentence of a justice given against him in pursuance of this act.

Provided nevertheless, That it shall and may be lawful for any justice of the peace on application, to grant a licence for any person to travel, or do any secular business on said day, which shall appear to him to be a work of necessity or mercy: and such certificate shall be a bar to any prosecution therefor. And the informing officers aforesaid, shall have a right to inquire of any person apparently offending against this act, the cause or necessity of his so doing, and if he shall neglect or refuse to assign such reason or reasons as may appear on trial to be sufficient, or shew such certificate, he shall pay costs of prosecution, any other reason he shall give on trial, notwithstanding.

And be it further enacted, That all prosecutions for offences against this act, shall be commenced within thirty days after the offence shall have been committed, and not afterwards.

And be it further enacted, That an act intituled "An act for the better observation and keeping the Lord's day," passed in the late province, now state of New-Hampshire, in the year of our Lord, seventeen hundred—and also an act, intituled "An act for the better observation and

keeping

keeping the Lord's day," made and passed June 23, one thousand seven hundred and eighty-five, be and they hereby are repealed.

And it is hereby recommended to the ministers of the gospel, to read this act publicly in their congregations, annually, on the Lord's day next after the choice of town officers.

AN ACT to prevent the spreading of the small-pox, Passed Feb. 3, 1789.
for allowing hospitals to be erected under certain restrictions, and to repeal an act, intituled "An act providing in case of sickness;" also an act, intituled "An act to prevent the spreading of the small-pox, in this state."

WHEREAS the salutary purposes of the laws providing in cases of sickness, and for preventing the spreading of the small-pox in this state, are not sufficiently answered thereby :

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That the before recited acts be, and they hereby are repealed; and that the justices of the inferior court of common pleas, in the respective counties in this state, shall, on proper application to them made, grant a licence for one or more buildings to be erected or improved for the purpose of inoculating persons for the small-pox, in any town, parish or place within this state, under such regulations as they may think proper, provided the consent of the town, parish or place, can be previously obtained therefor.

Therefore be it enacted, That the justices aforesaid, shall and may from time to time licence such physician or physicians to take care of, and superintend such hospitals as they shall think proper, and that the physician and physicians, so from time to time licenced, shall give bond to the justices aforesaid, in the sum of one thousand pounds, for the faithful discharge of the trust reposed in them, and that they will take every precaution, and use all means in their power, to prevent the spreading of said disorder, and that they will not inoculate and suffer any person to have the small-pox in any
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other place than the hospital or hospitals licenced as aforesaid, or willingly suffer the same to be done.

And be it further enacted, If at any time it shall happen that the small-pox shall break out in any town, parish or place in this state, the selectmen of such town, parish or place, or the major part of them, may remove any persons infected, to any place where permission may be obtained from such justices, or where there are no selectmen or hospital appointed, to any place remote from inhabitants; provided that no person or persons shall, in any case whatever, be removed, unless the physician attending him, her or them so infected, shall be of opinion that such removal will be safe, and no way dangerous to the life of such person or persons.

And be it further enacted, That if any person from and after the passing of this act, shall, with intent to spread the small-pox, and communicate the same to any person bringing any infectious matter into the state, or shall use such infectious matter, so as to communicate the same, or shall presume to inoculate him or herself, or any other person with the small-pox, or shall be inoculated therefor, each person so offending, shall pay a fine of fifty pounds lawful money, to be recovered by bill, plaint or information, before the superior court of judicature within this state; the one half thereof, to the use of the informer or prosecutor, and the other half to the use of the town where such offence shall be committed.

And be it further enacted, That if any physician or physicians, or other person not licenced as aforesaid, shall presume, on any pretence whatever, to inoculate any person or persons with the small-pox, the person so offending, shall pay a fine of one hundred pounds, to be recovered and appropriated as in this act is above provided.

And be it further enacted, That if any person or persons, seamen or passengers, belonging to or on board any vessel arriving at any port or harbour within this state, shall be infected with the plague, small-pox, pestilential or malignant fever, during the voyage, the commander of such ship or vessel shall immediately, on his entrance into such port or harbour, cause his vessel to be anchored, and give information thereof to the commanding officer of fort William and Mary, if the vessel

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vessel happens to be in Piscataqua harbour, or in case of the vessel's being in any other port, to the nearest field-officer of the militia, whose business it shall be immediately to notify the president, or in his absence, two of the council, and receive their directions, and if the commanding-officer shall suffer any person or thing to be landed or set on shore out of said vessel, without permission obtained either from the president, or in his absence, from two of the council, he shall forfeit and pay the sum of one hundred pounds, to be recovered and appropriated as aforesaid. And if any person who may come in such vessel, either as seaman or passenger, shall presume to come on shore before licence is obtained as aforesaid, he shall forfeit the sum of fifty pounds, to be recovered and applied as aforesaid.

AN A C T to prevent the destruction of salmon and shad in Connecticut river. Passed Feb. 6, 1789.

WHEREAS by reason of the great number of seines, nets and machines, which are constantly used during the fishing season, in taking salmon and shad in Connecticut river, they have decreased for a number of years past, and there is great danger that the fishing in said river will be destroyed.

BE it therefore enacted by the senate and house of representatives in general court convened, That no person or persons, from and after the passing of this act, shall catch any salmon or shad, in any part of Connecticut river, oftner or more than three days in a week, the days to be Tuesday, Wednesday and Thursday in each week, namely, from sunrise on Tuesday to sunrise on Friday.

And whereas, the fishing on or near to the several falls in the said river, called Bellows's falls, Quechæ falls, white river falls, and fifteen miles falls, tends greatly to obstruct the fish in going up the falls aforesaid :

Be it enacted by the authority aforesaid, That from and after the passing this act, no fish shall be taken on the said falls, called Bellows's falls, Quechæ falls, and the falls called white river falls, and the falls called fifteen miles falls, except on Tuesday, Wednesday and Thursday

day in each week, and from sunrise on Tuesday to sunrise on Friday. And if any person or persons shall catch any salmon or shad, in Connecticut river, or shall drag any seine, or drag-net, or use or set any scoop-net, or any other net or machine for the purpose of catching any of said fish, at any other time or place than by this act is allowed, in the said river, within this state, every person so offending, shall forfeit and pay for each and every such offence, the sum of ten pounds.

And be it further enacted by the authority aforesaid, That no person or persons whatsoever, from and after the passing this act, shall catch any salmon or shad with seines or nets more than twenty rods in length in the said Connecticut river; and if any person shall presume to fish in said river with a seine or net exceeding the length of twenty rods, he shall for each and every such offence forfeit and pay the sum of ten pounds.

And be it further enacted, That no person or persons from the first day of May to the last day of October, annually, shall erect or build any mill-dam, ware or other obstructions whatever, upon or across the said river Connecticut, or shall continue any such mill-dam, ware or other obstruction wheresoever the same may have been, or may hereafter be erected during or within any part of the time in which they are above prohibited, so as to hinder the free passage of the said fish upon the penalty of twenty pounds for every dam, ware or other obstruction so erected, and for every month so continued, to be recovered and applied as aforesaid.

And be it further enacted, That all fines and forfeitures incurred by any offence committed against this act, shall enure the one moiety thereof to the use of the county in which said offence shall be committed, and the other moiety to him or them who shall make information of the same, and shall be recovered by information or indictment in the superior court of judicature.

Passed Feb.
6, 1789.

AN ACT to prevent the destruction of salmon, shad and alewives in Merrimac river, and for repealing all the laws heretofore made for that purpose.

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WHEREAS the laws heretofore made for preventing the destruction of salmon, shad and alewives in Merrimac river, have not sufficiently answered the good intentions of the same :

BE it therefore enacted by the senate and house of representatives in general court convened, That no person or persons after the passing this act, shall catch, kill or destroy any salmon, shad or alewives in any part of Merrimac river within this state, or in any of the waters falling thereinto oftener or more than two days in a week, the days to be Wednesday and Thursday in each week, namely from sunrise of Wednesday to sunrise on Friday, on penalty of forfeiting forty shillings for each fish so caught, kill'd or destroyed on any other day.

And be it further enacted, That no person or persons from the first day of May to the last day of October, annually, shall erect or build any mill-dam, ware or other obstruction whatever, upon or across said river Merrimac, or the streams falling into the same where the said fish usually pass, or where they have heretofore passed, so as thereby to prevent the free passage of the fish in said river or streams, or shall during the term aforesaid, continue any such mill-dam, ware or other obstruction wheresoever the same may have been, or may hereafter be erected, upon the penalty of twenty pounds for every mill-dam, ware or other obstruction so erected, and for every month so continued, and in that proportion for a longer or a shorter time, than the said term of one month.

And be it further enacted, That no person or persons shall on any day, or at any time whatever, catch, kill or destroy, any salmon, shad or alewives within twenty yards of any mill-dam or sluice-way in said river, or in any waters or streams falling into the same, on penalty of forfeiting forty shillings for each fish so caught killed or destroyed.

And be it further enacted, That a justice of the peace and the selectmen for the time being, of each and every of the towns lying upon or adjoining unto the said river Merrimac, or any of the streams or waters falling into the same, where the said fish annually pass, or have heretofore passed, be and they hereby are fully authorized and impowered in their respective towns, to demolish, carry away or otherwise utterly destroy any
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such mill-dam, ware or other obstruction whatever, that now is, or may be erected or continued as aforesaid, upon or across said river, or any of the streams aforesaid, which do or may in any manner obstruct or impede the said fish, or prevent their free passage up and down the said river or streams at any time between the first day of May and the last day of October annually, as aforesaid. The selectmen still having liberty in their own name to prosecute any person or persons, who have caught, killed or destroyed any fish, or who have erected any mill-dam, ware or other obstruction contrary to this act.

And be it further enacted, That the selectmen aforesaid shall be under oath, for the faithful discharge of their duty in putting this act and every part thereof in execution.

And be it further enacted, That if the justice of the peace, or any of the selectmen of the town where such mill-dam, ware or other obstruction shall be made, erected or built, are interested in, or owners of, or in part owners of the same, a justice of the peace and the selectmen of some other town, adjoining unto the said river Merrimac or any of the streams or waters falling into the same, where the said fish annually pass, or have heretofore passed, be and they hereby are as fully authorized to demolish, carry away or otherwise destroy such mill-dam, ware or other obstruction as the selectmen in their respective towns in and by this act.

And be it further enacted, That if the said justice of the peace, and any of the selectmen aforesaid, shall neglect his or their duty in this respect, or refuse to put this law in execution for the space of four days after complaint made to him or them, by any two inhabitants of the respective towns aforesaid, he or they shall forfeit and pay the sum of forty pounds for each and every offence: provided always, that when said justice, or any of the selectmen aforesaid, on complaint being made to them as aforesaid, have viewed such obstructions, and are of opinion, that the passage of said fish is not hindered or impeded thereby, they, or either of them, shall not be compelled to repair to such a place a second time, unless complaint shall be made of some new obstruction; any thing to the contrary in this act, notwithstanding.

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And be it further enacted, That all fines and forfeitures incurred by any offence against this act, shall enure the one moiety thereof to the use of the county in which said mill stands, and the other moiety to him or them who shall make information of the same, and shall be recovered by action of debt, information or indictment in any court proper to try the same.

And be it further enacted, That the justice and selectmen aforesaid, may and shall from time to time authorize persons owning mills, and erecting mill-dams with sluice ways, which do not, in their opinion, obstruct the course and passage of said fish, to continue the same, and shall be judges of what are obstructions, and what are not, and a certificate under the hands of such justice and selectmen, that such mill-dams with sluice-ways, do not obstruct the course and passage of said fish, shall be plead in bar to any action of debt, information or indictment in any court where the same may be for trial.

And be it further enacted, That if any justice of the peace, selectman or selectmen, or any other person employed by them, for the purpose of demolishing, carrying away, or destroying any mill-dam, ware, or other obstruction aforesaid, shall be prosecuted, sued or molested for, or in consequence of having demolished, removed or destroyed the same, in pursuance of this act, he may, on trial for the same, plead the general issue, and give this act in evidence, which shall be deemed a complete and final bar.

And be it further enacted, That an act to prevent the destruction of salmon, shad and alewives, in Merrimac river, passed April ninth, 1784, and an act in amendment of, and addition to the same act, passed June twenty-six, one thousand seven hundred and eighty-six, be, and they hereby are, repealed.

AN A C T to preserve the fish in Piscataqua river, Passed Jan. 20, 1789.
and the branches thereof.

WHEREAS the fishing in Piscataqua river and in the harbour near the mouth of said river with setting lines and seines hath already in a great measure obstructed and turned the course of the cod-fish in said river and the
fishing

fishing for bass and blue-fish in winter hath almost destroyed the bass and blue-fish in said river, and the branches thereof, so that these useful fisheries are in eminent danger of being lost unless prevented by an act of the general court.

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That from and after the making of this act, no person shall be allowed to fish in the said river, or harbour, or any of the branches thereof, within this state, where the tide ebbs and flows, with any seine or setting-line, for any fish whatsoever, excepting smelts and shad, and no person shall, by any way or means whatsoever, catch, kill or destroy, any bass, or blue-fish, in said river, or the branches aforesaid, from the first of December to the first of April, annually, on pain that any and every person offending in any of the particulars aforesaid, shall forfeit and pay for every such offence, the sum of two pounds, to be recovered by action or information, before any justice of the peace, within the county where the offence may be committed, one half to the use of the state, the other half to the informer: and any person or persons are hereby authorized to destroy any sein, or setting lines, or nets set for fishing in said river, or the branches thereof, excepting those used for catching smelts and shad; and in case of being sued therefor, may plead the general issue, and give the special matter in evidence, and shall recover double costs; and whosoever shall knowingly sell or buy any bass, blue-fish or cod-fish taken contrary to this act, shall forfeit ten shillings, to be recovered by action or information before a justice of the peace, for the use of the informer, allowing an appeal from any such judgment as the law in other cases directs.

Passed Feb.
24, 1786.

Preamble.

AN ACT for laying a fine on delinquent sheriffs and town-clerks.

WHEREAS many inconveniences have arisen from the neglect of sheriffs and town-clerks, in not seasonably making returns of votes for a president, senators, and other officers, elected by the suffrages of the people: Therefore,

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Therefore,

BE it enacted by the senate and house of representatives in general court convened, That if any sheriff shall neglect to make due return, agreeable to constitution, of the votes of the respective counties, for all or any of the officers aforesaid, that may seasonably come to the hand or custody of such sheriff, shall, for every such neglect, forfeit and pay a fine of twenty pounds; the one moiety thereof, for the use of the county to which any such delinquent sheriff belongs; the other moiety thereof, for the use of the complainant, who shall sue for and recover the same, by action, bill, plaint or information, in any court proper to try the same. Sheriff's neglecting, &c.

Fine.

And be it further enacted by the authority aforesaid, That if the clerk of any town, parish or district, shall neglect to make return of the votes of his respective town, parish or district, for any of the officers aforesaid, agreeable to the constitution and laws of the state, shall, for each and every such neglect, forfeit and pay the sum of forty shillings, to be recovered in manner aforesaid; the one moiety for the use of the complainant, who shall sue for and recover the same; and the other moiety thereof, for the use of the town, parish or district, to which such delinquent clerk belongs. Town clerk neglecting, &c.

Fine.

REVENUE ACTS.

AN ACT for granting an excise on several sorts of liquors, for the use of this state. Passed Sept. 1st, 1781.

WHEREAS provision ought to be made for the support of government within this state, and for answering the incidental charges thereof: Preamble.

BE it therefore enacted by the council and house of representatives, in general assembly convened, and by the authority of the same, That there shall be paid in future by all taverners, innholders and retailers within this state, for all such wine, rum, brandy, or other distilled spirits, as they shall sell by retail, the following excise, viz. By every tavern-keeper or innholder, three pence per gallon, on all such wine, rum, brandy, or other distilled spirits; and by every retailer twopence

Excise on
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Receiver to
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Oath to be
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Tavern-
keepers, &c.

per gallon, on all such liquors by them so sold or re-
tailed: All which excise as aforesaid shall be paid quar-
terly to such receiver or farmer of the said excise as
shall be appointed to receive the same, or to his deputy,
in lawful money of this state; (the said tavern-keepers
and retailers, being allowed a deduction of twenty per
cent on all such wine, rum, brandy, or other distilled
spirits, as they shall have sold) an account of which
they shall give quarterly to the said receiver, farmer
or deputy, upon oath, if required, which oath the
said receiver, farmer or deputy is hereby authorized to
require, and administer, without fee or reward.

And be it further enacted, That if any such tavern-
keeper, innholder or retailer, shall refuse to take such
oath, at the request of the said receiver, farmer or deputy,
they shall forfeit the sum of ten pounds, and so toties
quoties, to be recovered by the said receiver, farmer
or deputy, upon complaint made to the court of gene-
ral sessions of the peace, within the county where such
delinquent dwells, who are hereby impowered to give
judgment and award execution thereon accordingly.

And be it further enacted by the authority aforesaid,
That any person or persons within this state, who shall
after the first day of October next, without licence
first had from the court of general sessions of the peace,
sell any wine, rum, brandy or other distilled spirits, in
lesser quantities than twenty-five gallons to be delivered
at one and the same time, shall forfeit and pay the sum
of forty shillings for every such offence, one third to
the person who shall inform and sue for the same, one
third to the use of the said receiver or farmer, and the
other third to the use of the county wherein the same
is sold, and that two credible witnesses shall be deemed
as sufficient proof thereof.

And be it further enacted, That every person being
duly summoned to give evidence respecting the breach
of this act (other than children and servants of the
party complained of) who shall refuse to give evidence
upon oath or affirmation (when so required) of what
he or she knows concerning the premises, shall forfeit
the sum of forty shillings, to be recovered and divided
as aforesaid.

And be it further enacted by the authority aforesaid,
That the fines herein mentioned, to be paid by the said
tavern-

tavern-keepers and retailers in case of their refusal to pay fines, wear to the quantity of liquors by them purchased for not to pay excise, and sold as aforesaid, be and hereby is intended to be in full satisfaction for their quarterly excise.

And be it further enacted, That the justices of the courts of general sessions of the peace in the several counties in this state, are hereby prohibited from granting any licence to any tavern-keeper or retailer, after Sessions not to grant licence. three months from the passing this act, unless such tavern-keeper or retailer produce to such court a certificate from the said receiver, farmer or deputy, that he or she have paid their excise up to that time.

AN ACT in addition to an act, intituled "An act for granting an excise on several sorts of liquors, for the use of this state." Passed Dec. 28, 1782.

WHEREAS the said act is found to be, in many respects, insufficient for the purposes for which it was framed : Preamble.

BE it therefore enacted by the council and house of representatives for said state, in general assembly convened, and by the authority of the same, That from and after the first day of March next, all taverners, innholders, and retailers within this state, for all such wine, rum, brandy, or other distilled spirits as they shall sell by retail, shall pay the following excise, viz. Every tavern-keeper, or innholder, instead of three pence per gallon, as mentioned in said act, shall pay six pence per gallon for all such wine, rum, brandy, or other distilled spirits. Tavern-keepers 6d per gallon.

Enacting clause.

Tavern-keepers 6d per gallon.

Retailers, 4d per gallon.

And every retailer, instead of two pence per gallon, as mentioned in said act, shall pay four pence per gallon, on all such liquors by him so sold or retailed, to be accounted for, and paid in the same manner as mentioned in the act aforesaid.

To be sold at public vendue.

And be it further enacted, That the said excise shall be annually, to wit, on or before the first day of February, sold at public vendue, to the highest bidder, the excise for each county, to be notified in the public prints, three weeks successively, previous thereto.

Committees to sell excise.

And be it further enacted, That there be a committee in each county within this state, for the purpose of notifying

tifying and selling as aforesaid, the excise for the current year; said committees to be as follows, viz. Gen. Nathaniel Folsom, Mr. Ephraim Robinson, and Mr. Noah Emery, jun. for the county of Rockingham. The Hon. John Wentworth, Esq. Col. John McDuffee, and John Plummer, Esq. for the county of Strafford. Gen. Moses Nichols, Francis Blood, Esq. and Richard Cutts Shannon, Esq. for the county of Hillsborough. Col. Samuel Hunt, Mr. Daniel Kingsbury, and Capt. Josiah Richardson, for the county of Cheshire. And Col. Charles Johnson, Moses Dow, Esq. and James Woodward, Esq. for the county of Grafton. The said committees respectively, to take bonds, with good securities, from the several purchasers, for the sums for which they are respectively indebted, to the treasurer of said state, for the time being, in his said capacity, and immediately to return them into the said treasurer's office.

Proviso.

Provided always nevertheless, That nothing in this act shall be construed to repeal any part or clause in the act herein referred to, such parts only excepted as are repugnant hereto, or expressly repealed hereby.

Passed June
27. 1787.

A N A C T in addition to, and explanation of, an act, intituled "An act for granting an excise on several sorts of liquors for the use of this state."

WHEREAS by an act made and passed the first day of September, Anno Domini, 1781, intituled, "An act for granting an excise on several sorts of liquors for the use of this state," it is provided, that such excise, shall be paid quarterly to such receiver or farmer of said excise, as shall be appointed to receive the same, or to his deputy, in lawful money of this state, (the tavern-keepers, and retailers, being allowed a deduction of twenty per cent.) on all such wines, rum brandy, or other distilled spirits, as they shall have sold; an account of which they shall give quarterly to said receiver, farmer, or deputy, upon oath if required, which oath the said receiver, farmer or deputy, is thereby authorized to require, and administer, without fee or reward. And further, that if any such taverner, innholder or retailer, shall refuse to take such oath, at the request of the

Preamble.

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the said receiver, farmer or deputy, they shall forfeit the sum of ten pounds, and so toties quoties, to be recovered by the said receiver, farmer or deputy, upon complaint made to the court of general sessions of the peace, within the county where such delinquent dwells, who are thereby impowered to give judgment and award execution thereon accordingly. Which said act does not make, the person rendering said account, and taking said oath, liable to the penalty aforesaid, in case he refuses to pay said excise, when said account is rendered, and sworn to as aforesaid,

For remedy whereof :

BE it enacted by the senate and house of representatives in general-court convened, That in case any taverner, innholder or retailer, shall refuse to pay his or her excise as aforementioned, upon request made by such receiver, farmer, or his deputy, at the time of rendering his or their account as aforesaid, they shall forfeit the sum of ten pounds, to be recovered as aforesaid, and so toties quoties, for every such neglect.

And whereas, by said act, two credible witnesses are required to prove any offence against the same, for selling without licence; which often renders it impossible to prove the fact,

Therefore for remedy of the same :

Be it enacted, That no other mode of evidence, shall be required, upon any trial for any offence against said act, than what shall be deemed sufficient at common law, any law usage or custom to the contrary notwithstanding.

Provided always, That nothing in this act, shall be construed to be retrospective.

AN ACT to raise a revenue to this state by excise. Passed Sept. 28, 1787.
WHEREAS the raising a larger revenue to this state, by excise, than hath heretofore been practised, and in a more general way, appears very necessary :

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That on and after the first day of October next, that instead of the excise to be paid by the laws now in force, there shall be paid on

Excise on certain articles.

the

the following articles, the excise duty to them in this act respectively annexed, viz.

On every gallon of Madeira wine, one shilling and three pence.

On every gallon of other wine, nine pence.

On every gallon foreign malt liquor, four pence.

On every gallon of foreign rum, and other foreign distilled spirits, eight pence.

On every gallon of New-England rum, and other American distilled spirits, four pence.

On every imported clock, thirty shillings.

On each coach or chariot, six pounds a year.

On every phaeton or four wheeled chaise, three pounds a year.

On every fall-back chaise, eight shillings a year.

On every other chaise, six shillings a year.

On every sulkey or riding chair, four shillings a year.

Forfeiture for
selling with-
out licence.

And be it further enacted, That from and after the first day of October next, no person or persons shall sell by retail any of the foregoing articles, subject to excise (clocks and carriages excepted) without first having obtained a licence therefor, as is hereafter mentioned; and if any person or persons shall, after the said first day of October next, sell any of the articles aforesaid, (excepting as aforesaid) by retail, without first obtaining such licence, he, she, or they, shall forfeit and pay the sum of forty shillings for each offence, to be recovered by the farmer or collector, by action or bill, in any court proper to try the same: three fourths whereof, shall be for the use of this state, and the remainder for the person prosecuting for the same.

Persons pur-
chasing by
wholesale of
those who do
not retail, to
pay excise.

And be it further enacted, That any and every person or persons who shall purchase or receive in large quantities, or by wholesale, any rum, wine, or distilled spirits of any kind, for his, her or their own particular use and consumption, of those who do not retail or pay excise for the same, such person or persons so purchasing, shall be liable to pay, and shall pay the excise aforesaid, to the farmer or collector of the same. And all persons so purchasing shall, if required by the collector, render an account on oath, of all such liquors so by them purchased or received, and consumed as aforesaid.

Oath to be
taken.

And be it further enacted, That what shall be considered

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dered as wholesale in the aforesaid articles, shall be as follows, viz. Wine and all spirituous liquors, twenty-five gallons and upwards. All malt liquors, twenty-five gallons and upwards. And every retailer or licensed person as aforesaid, shall quarterly, if required, by the collector, render an account on oath, of all the said enumerated articles by him or her purchased, and not sold by wholesale. And in case of any of the persons aforesaid refusing to render such account, being required as aforesaid, such person shall forfeit and pay the sum of ten pounds, to be recovered as aforesaid, for the uses aforesaid. And all other persons purchasing or receiving as aforesaid, by wholesale, rum, wine, or distilled spirits of any kind, and consuming the same as aforesaid, shall be under the same obligation to render an account quarterly, if required, and in case of neglect, shall forfeit and pay the sum of forty shillings, to be recovered as aforesaid.

What considered as wholesale.

And be it further enacted, That the excise arising by virtue of this act, shall be farmed out and sold at public auction, in the several counties in this state, sometime between the first day of October and the first day of February, annually, by committees appointed by the general court for that purpose.

Excise, when to be sold.

And be it further enacted, by the authority aforesaid, That if any farmer, collector, or purchaser of excise granted by this act, shall not account with the treasurer of this state agreeably to his bond given for the same, the said treasurer is hereby directed, authorized and empowered to issue his extent against such delinquent farmers or collectors.

Treasurer to issue extents as delinquent collectors.

And be it further enacted, That licences for retailing spirituous liquors, or keeping a tavern, shall be granted and obtained in the same manner the same is done by the laws now in force, for which each taverner and retailer shall pay to the clerk of said court, three shillings, and the clerk of said court shall account with the treasurer of the county quarterly for three fourths of all fees he shall receive for said licences.

How licences shall be obtained.

And be it further enacted, That all taverners shall pay one fourth part excise more per gallon on all spirituous liquors herein enumerated, which shall be consumed in their respective taverns, than is by this act to be paid by retailers.

Taverners to pay one fourth part more than retailers

And

Owners of
clocks neg-
lect to pay,
the collector
to sue.

And be it further enacted, That all persons owning, or improving any clocks (hereafter imported) coaches, chariots, phaetons, or four wheeled chaise, fall-back chaise, other kind of chaise, fulkeys, or riding chairs that shall, at the end of the year commencing on the first day of October next, and so annually, neglect to pay the duty or excise herein respectively set down, the farmer or collector is hereby impowered and authorized to sue for and recover the said duty in any court proper to try the same.

Proviso.

Provided nevertheless, That no builder or manufacturer of any carriage or carriages that have been heretofore enumerated in this act, having the same on hand for sale, or any public carriage employed in the service of the United States for carrying any public mails, shall be liable to pay any excise therefor, or shall any person or persons owning any imported clock or clocks be liable to pay excise more than once for any or either of them, any thing in this act contained to the contrary notwithstanding.

Passed March 4, 1786. **AN ACT** to establish certain impost duties on various foreign articles imported into this state.

Preamble.

WHEREAS the laying duties on articles of the produce and manufactures of foreign countries, will not only produce a considerable revenue to the state, but will tend to encourage the manufacturing many of those articles in the same :

Therefore,

A duty of 15
per cent. on
fundry arti-
cles.

BE it enacted by the senate and house of representatives in general-court convened, That from and after the first day of May next, there shall be an impost duty of fifteen per centum ad valorem, upon all jewels, wrought gold and silver, brocades, or cloth of gold and silver, gold and silver lace, silk stockings, silk stuffs, silk, thread and woollen gloves, shoes and boots, buckles pewter spoons, silk, hair and basket buttons, beaver, felt and castor hats, saddles and bridles, horse harness, ready-made beds and furniture, painted paper, playing cards, chess-men, all wrought iron excepting artificers, tools, all wrought brass excepting warming-pans, all wrought mahogany, nails, bellows, all glass excepting window

window glass, cheese, loaf-sugar and linseed oil ; also, upon all ready made carriages, clocks, clock-cases, and watches, that may be imported into, this state, either by land or water ; and an impost duty of ten per centum ad valorem, upon all china, earthen, and stone wares, that may be imported as aforesaid ; and also an impost duty of five per centum ad valorem, upon all wines, beer, porter, and ale, that may be imported as aforesaid ; and a duty of three shillings per barrel, on all pitch, tar, and turpentine, imported as aforesaid ; and also a duty of two an half per centum ad valorem, upon all goods, wares, and merchandize, that may be imported into this state, as aforesaid : which duties shall be paid to the impost-officer, or either of his deputies, by the importer of said goods, wares and merchandize, at the time of importation ; or he shall give bond, with two sufficient sureties, for the payment of the same, to the said impost-officer, or his successor, within three months after the date, with interest after that time, 'till paid.

10 per cent.
5 per cent.
3 shil. per barrel.
2½ per cent.

And be it further enacted by the authority aforesaid, That whereas the impost-officer, or his deputy, may not, in all cases, agree with the importer, upon the value of such imported goods as are, by this act, liable to impost duty, they may jointly choose two or more reputable persons, to appraise such goods, on oath, which oath shall be administered by said impost-officer, or his deputy ; but in case the said officer, or his deputy, cannot agree with the importer, upon suitable persons to appraise said dutied goods, said officer is hereby directed, to apply to any justice of the peace for the county where such goods are imported, who is hereby authorized and required, to appoint two or more discreet persons, to appraise such goods, which persons so chosen and sworn, as before-mentioned, shall value said goods, and report the appraisement, under their hands, to the said officer, or deputy, which report shall be deemed the just value of said goods.

In case of disagreement

And be it further enacted by the authority aforesaid, That every master of a ship, or other vessel, importing into this state any goods, wares, or merchandize, liable, by this act, to an impost duty, shall, before he break bulk, and within forty-eight hours after his arrival, make a true and perfect report, in writing, to the said impost-officer,

The master to make report of his cargo.

officer, of his cargo by him so imported, together with the names of the owners, or consignees, of the same, and shall without evasion, immediately if required, expose the same to be appraised; which shall not, however, be deemed breaking bulk, but said goods, wares and merchandize, shall remain in the custody of the impost-officer, or his deputy, until the payment of the duties is secured.

The master
not to land
goods with-
out a permit.

And be it further enacted by the authority aforesaid, That if any master of a ship, or other vessel, shall land or deliver, any goods, wares, or merchandize, liable by this act to an impost duty, to any owner, consignee, or other person, until he first receive a permit from the naval-officer, who shall not grant such permit until he receive a certificate from the impost-officer, that the duty on said goods is secured, he shall be fined twenty pounds, and the said goods so landed, shall be forfeited.

Every wag-
goner, &c. to
make report.

And be it further enacted by the authority aforesaid, That every waggoner, team-driver, carman, or other person, who shall import or bring by land, in any cart, waggon, sledge, sleigh, or otherwise, any goods, wares or merchandize, exceeding the value of three pounds, at any one time, liable by this act to an impost duty, shall make report of the same immediately, together with the name of the person to whom they belong, to the impost-officer, or such deputy as may be most convenient, who shall take security for the payment of the duties. And if any waggoner, team-driver, carman or other person, shall import or bring into this state, any dutied articles, without making report, and giving security for the payment of the duties, he shall be liable to a fine of ten pounds, and such goods shall be forfeited.

Fine.

Justices of
sup. court to
hear and try
breaches, &c.

And be it further enacted, That all fines, forfeitures, and breaches of this act, shall be heard and tried before the justices of the superior-court of judicature, within the county wherein the same breaches may happen. And the said court, on conviction of any such offender, shall order one third part of such fine or forfeiture to be paid to the person or persons who shall inform and prosecute for the same, and the other two thirds to be paid into the treasury of this state, for the use thereof.

Impost officer
to file a libel.

And be it further enacted, That the impost-officer, or his deputy, upon seizure of any vessel, cargo, or goods, so forfeited, shall, within ten days from such seizure, file

file a libel
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file a libel against such vessel, cargo or goods, before any justice of the superior-court of judicature, therein alleging the causes of seizure and forfeiture; whereupon such justice shall grant a warrant, under his hand and seal, directed to the sheriff of the county wherein such seizure may be made, to take into his custody such vessel, cargo, and goods, and detain the same in custody, for trial. And said justice may further order the sale of any perishable goods, so seized, before trial thereof.

Provided, That the duties upon glass, cast-iron, and wrought-iron, shall not be demanded by the impost officer, until the first day of January, 1787; but said articles shall be subject only to the duty of two and a half per centum ad valorem, before the said first day of January.

Proviso.

Provided also, That this act shall not be construed to extend to any rum brought into this state, being the manufacture of any of the United States, or to the article of salt, or the necessary household furniture of any person coming into this state, or to any of the articles aforesaid, being the manufacture of any of the United States.

Continental
rum, &c. ex-
cepted.

This act to continue and be in force for the term of two years, and to the then next session of the general court.

AN ACT in addition to an act, intituled, "An act to establish certain impost duties on various foreign articles imported into this state." Passed June 27, 1787.

WHEREAS the before recited act, is in sundry respects insufficient to empower the impost officer, to enforce the collection of the revenue thereby intended to be raised. Preamble.

Therefore,

BE it enacted by the senate and house of representatives in general-court convened, That the impost officer, or in his absence one of his deputies properly authorized for that purpose by said impost officer, may enter on board any vessel coming into any port, haven or creek within this state, and remain on board said vessel himself, or place a deputy to remain on board, until the time appointed by law for making report to the impost officer.

The impost
officer or de-
puty may en-
ter on board
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time for ma-
king report.

cer. And after said report is made, the said impost officer, or his deputy, is hereby impowered, to examine and compare the cargo imported, with the report made. And in case any part of the cargo consisting of dutied articles, shall not be reported, such articles shall be forfeited; one third part thereof for the use of the said impost officer, or deputy (complaining) and the other two thirds, to, and for the use of the state. To be recovered as in, and by said act is provided.

Bonds to be discharged in silver & gold.

And be it further enacted, That all bonds given for impost duties, shall be discharged in silver or gold according to the tenor thereof: any tender act, or acts for offsetting mutual demands to the contrary notwithstanding.

Bonds given for impost duties not paid, to be lodged with the treasurer who is to issue an extent.

And in case any bond given for the payment of impost duties, shall not be paid at the time limited in the condition thereof, the impost officer shall lodge the same, with the treasurer of the state, who shall within thirty days after his receiving the same, issue an extent thereon, in the same manner as is now practised by law, on bonds given for the payment of excise.

The impost officer to give bond.

And be it further enacted, That the impost officer shall give bond, in the sum of three thousand pounds, to the treasurer of this state for the time being, conditioned for his accounting with the treasurer of the state, quarterly, for the duties by him received. And in case of failure of his duty, the treasurer shall, within thirty days after the expiration of any quarter, issue his extent in common form, against said impost officer, and his sureties.

And be it further enacted, That the said impost officer shall not allow any draw back of duties on imported articles, for, or on account of monies imported, unless the captain shall make oath before the said impost officer, and prove by the oath of one witness at least, that the said money was on board the vessel, when she sailed from some foreign port, and shall produce and count the said money, in the presence of the said impost officer.

Passed Sept. 28. 1787.

AN ACT to establish a fund for the redemption of orders drawn by the president of said state, and for appropriating the revenue raised by impost and excise.

WHEREAS

WHEREAS the providing a proper fund of discharging orders drawn on the treasury, and appropriating the revenues of this state, for paying the demands against the government, will not only tend to raise the public credit, but in a great measure supply the want of a circulating medium within the same :

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That there be, and hereby is granted for the purposes aforesaid, a tax of ten thousand pounds (in addition to the sums already granted) for the payment of cash orders drawn on the treasurer of this state, to be levied upon the polls and estates within the same ; and collected and paid into the treasury in the following manner, viz.—Five thousand pounds by the first day of January, seventeen hundred and eighty-nine ; and five thousand pounds more by the first day of January, one thousand seven hundred and ninety.

£10,000 in addition granted.

£5,000 by 1st Jan. 1789.
£5,000 by 1st Jan. 1790.

And be it further enacted, That for all sums of money hereafter granted by the general court to any person or persons, payable at the treasury, the orders therefor shall (if the person or persons intitled thereto request it) be made out in small orders, from five shillings, and upwards ; not more than one half of any sum to be in orders of less than twenty shillings.

And be it further enacted, That all persons now possessed of orders on the treasury, for sums of ten pounds and upwards, may lodge them with the treasurer of the state, and take his certificate thereof, and upon his lodging the same with the secretary, shall be intitled to receive the sum in small orders made out in the manner above directed, and signed by the president.

Persons possessed of orders for 10l. and upwards, may receive small orders in lieu thereof.

And be it further enacted, That certificates for interest, and any part of the principal on state securities, shall (if requested) be issued in future, in small sums of the amount herein before directed for orders drawn upon the treasury.

Certificates may be issued in small sums

And be it further enacted, That the revenue annually arising from the excise and impost, be and hereby is appropriated for the payment of delegates to Congress, the salary of the judges of the superior court, the president, council and senate, the travel of representatives,

The revenue of excise and impost appropriated.

representatives, pay of the treasurer, secretary, attorney-general, and other officers of government; and the residue of said funds, shall be applied to the discharge of cash orders drawn, or that may be drawn on the treasury. And in case any deficiency shall happen, such deficiency shall be made up out of the specie taxes now due, or that may hereafter become due to government.

Revenue of
the naval of-
fice appro-
priated.

And be it further enacted, That the revenue annually received by the naval officer, be and hereby is appropriated to the support of the garrison and maintenance of the light at the castle William and Mary, and the deficiency, should any happen, shall be made up out of specie taxes due to the state; and the surplus of said revenue, if any there, shall be, and hereby is appropriated to the payment of orders drawn, or that may be drawn on the treasury.

Demand for
specie to be
paid out of
specie taxes.

And be it further enacted, That all other demands against the state for specie, shall be paid out of the specie taxes now due, or that may hereafter become due to said state.

Orders drawn
on, &c. to ex-
press the fund

And be it further enacted, That all orders that may hereafter be drawn upon the treasury, shall express the particular fund out of which the same is to be paid, which fund shall be holden for that purpose.

And in order that the revenue of the state, may with ease and certainty, be ascertained:

Treasurer to
furnish the
Sec'y with
account of
sums due.

Be it further enacted, That immediately after the passing this act, the treasurer shall furnish the secretary with an account of the sums now due for excise, imposts, duties, and to the naval-officer with an estimate of the sums annually arising from each. The estimated profits of each branch for one year together, with the arrearages due to the same, shall be charged in account thereto, and credit given for all orders drawn upon the same. The treasurer shall also furnish the secretary with an account of the specie taxes due to the state, which shall also be charged in account to the same, each year by itself, and credited with the orders drawn upon the same. And in case it should at any time so happen, that the revenue arising to the state, should prove insufficient to answer the sums granted by the general court, and payable in orders upon the treasury, the president, with advice of council, may draw such orders, and make them payable out of some future tax.

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A separate account of all such orders drawn by way of anticipation, as also of all revenue account as before directed, shall be kept by the secretary, and laid before the general court, at the opening of every session, that the court may be able to ascertain with certainty, the debts and the resources of the state, and make provision accordingly.

Provided nevertheless, That nothing in this act, shall be construed to prevent the senators or representatives from receiving their pay for travel already due out of the specie taxes already assessed, if they shall chuse the same.

AN A C T to revive and continue in force, an act, intitled, "An act to establish certain impost duties on various foreign articles imported into this state." Passed June 13, 1788.

WHEREAS the said act will expire at the end of this session of the general court, unless further continued, and as the same has been found very beneficial: Preamble.

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That the said act, and every part and clause, thereof, so far as the same are consistent with the other impost acts now in force, be and hereby are revived and continued in full force, for the term of two years from the passing hereof, and until the end of the then next session of the general court. Enacting clause.

AN A C T to alter and extend the act about powder-money. Passed April 16, 1784.

WHEREAS the act, intitled, "An act about powder-money," directs that the duty therein mentioned, should be paid in money or powder; which alternative is found inconvenient: and as doubts have arisen, what vessels should be denominated foreign vessels, within the meaning of said act; to remedy which inconvenience, and remove such doubts, Preamble.

BE it enacted by the council and house of representatives for said state, in general assembly convened, That the said act shall extend to, and be construed to extend Extending clause.

extend and comprehend all vessels not belonging to any subject or subjects of any of the United States.

Every ship,
&c. to pay
in money.

And be it further enacted by the authority aforesaid, That every ship or vessel to which said act shall be construed to extend, shall, in future, pay to the naval-officer of this state, two shillings per ton, in money, and not in powder, as mentioned in said act; which money shall be paid quarterly by the said naval-officer, into the treasury of the state.

STATE AND NATIONAL MATTERS.

Passed April 9, 1777. AN A C T for the re-establishing the general system of laws heretofore in force in this state.

Preamble.

WHEREAS doubts have arisen whether the several acts and laws in force in this state, before the assumption of the present form of government, were not thereby, or by the subsequent declaration of independence, vacated, abrogated and disannulled :

For removal whereof,

BE it enacted by the council and house of representatives, in general court convened, and by the authority of the same it is hereby enacted, -That all the acts and laws in force in this state (at the time the present form of government was assumed) with every article, direction and power in the same contained, so far as they are not repugnant to, and incompatible with the present form of government in this state, its independence on Great-Britain, or are not repealed and disannulled, or altered by any act or law made and passed by the council and house of representatives of this state, since the said assuming of government, be revived, be enacted, directed and ordered to abide and remain in full force, and accordingly to be exercised, practised and put in execution, and that all the fines and forfeitures thereby appropriated to the king's use, shall be applied to the use of the county wherein the same shall be imposed and become due.

AN

AN A C T to establish a seal, to be used as the great seal of the state. Passed Feb. 12, 1785.

WHEREAS the committee appointed by the general court to prepare a device and inscription for a state seal, did, on the first day of November last, lay before said court a device, with the following inscription, viz. *A field encompassed with laurels, round the field, in capital letters, SIGILLUM REIPUBLICÆ, NEO HANTONIENSIS, on the field a rising sun and a ship on the stocks, with American banners displayed, being two inches diameter, which was then voted to be received and accepted, and accordingly hath since that time been used as the great seal of the state : but as doubts have since arisen, whether the vote for establishing said seal was sufficiently explicit ; for removing such doubts,* Preamble.

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That the said seal, with the above recited inscription, be fully established and used in all cases, as the great seal of this state, and considered as having been such from the first day of November last. Enacting clause.

AN A C T for the encouragement of literature and genius, and for securing to authors the exclusive right and benefit of publishing their literary productions for twenty years. Passed Nov. 7, 1783.

AS the improvement of knowledge, the progress of civilization, and the advancement of human happiness, greatly depend on the efforts of learned and ingenious persons in the various arts and sciences ; as the principal encouragement such persons can have to make great and beneficial exertions of this nature, must consist in the legal security of the fruits of their study and industry to themselves ; and as such security is one of the natural rights of all men, there being no property more peculiarly a man's own, than that which is produced by the labour of his mind : Therefore, to encourage the publication of literary productions, honorary and beneficial to the public, Preamble.

Be

Book, &c. the
sole property
of the author.

Persons pro-
hibited print-
ing, &c. any
literary pro-
ductions.

Penalty.

BE it enacted by the council and house of representatives in general assembly convened, and by the authority of the same, That all books, treatises, and other literary works, having the name or names of the author or authors thereof, printed and published with the same shall be the sole property of the said author or authors being subjects of the United States of America, their heirs and assigns, for the full and complete term of twenty years from the date of their first publication.

And be it further enacted by the authority aforesaid That if any person or persons shall print, re-print, publish, sell, or expose to sale; or shall cause to be printed, re-printed, published, sold, or expose to sale, any book, treatise, or other literary work, not yet printed, written by any subject of the United States of America, whose name as author, shall have been thereto prefixed, without consent of the author or authors, or their assigns, during said term, shall forfeit and pay a sum not exceeding one thousand pounds, nor less than five pounds, to the use of such author or authors, or their assigns; to be recovered by action of debt, in any court of record proper to try the same:

Provided always, That this act shall not be construed to extend in favour, or for the benefit of any author or authors, subject or subjects of any other of the United States, until the state or states of which such authors are subjects, shall have passed similar laws, for securing to authors the exclusive right and benefit of publishing their literary productions.

Passed Sept.
15, 1786.

AN A C T in compliance with the treaty of peace between the United States and his Britannic Majesty, and with the recommendation of Congress of the fourteenth of January, one thousand seven hundred and eighty-four, founded thereon.

Preamble.

WHEREAS several acts and laws, during the late war with Great-Britain, were passed by this state, which are found to be incompatible with the definitive treaty of peace and friendship: and whereas Congress did, on the fourteenth day of January, one thousand seven hundred and eighty-four, earnestly recommend to the legislatures

latures of the respective states, to reconsider and revise all their acts and laws respecting the premises, so as to render such acts and laws perfectly consistent, not only with justice and equity, but with that spirit of conciliation, which, on the return of the blessings of peace, should universally prevail :

BE it therefore enacted by the senate and house of representatives in general court convened, That the fourth article of the said definitive treaty, viz. "It is

4th article of treaty complied with.

agreed that the creditors on either side, shall meet with no lawful impediment to the recovery of the full value in sterling money, of all bona fide debts, heretofore contracted," be complied with as far as it respects this state ; and that the subjects of his Britannic majesty, shall meet with no lawful impediment to the recovery of any such debts, but shall have a right to recover the same, in the manner and way solemnly stipulated in said article.

And be it further enacted, That in case any of the estates, rights, and properties of any real British subjects, or any of the estates, rights and properties of any person or persons, resident in any district or districts, which were in the possession of his Britannic majesty's arms, between the thirtieth day of November, one thousand seven hundred and eighty-two, and the fourteenth day of January, one thousand seven hundred and eighty-four, and who have not borne arms against the United States, shall have been confiscated, the act, or acts so confiscating, shall be and hereby are repealed. And persons of any other description, shall have free liberty to go to any part or parts of this state (provided that within fourteen days after their first arrival, they lodge their names in the secretary's office) and to reside in any town, place or district herein, during the space of one year, to commence from the day of their first arrival in this state, and no longer ; and to remain unmolested in their endeavours to obtain the restitution of such of their estates, rights and properties, as have been confiscated.

Acts confiscating certain estates repealed.

And be it further enacted by the authority aforesaid, That the act of this state, passed the nineteenth day of November, 1778, intitled, "An act to prevent the

Several acts repealed.

return to this state, of certain persons therein nam-

" ed

"ed, and of others who have left, or shall leave this state, or either of the United States of America, and who have joined, or shall join the enemies thereof," so far as the same militates with the said articles of peace, also, the act passed the twenty-eighth day of November one thousand seven hundred and seventy-eight, intituled "An act to confiscate the estates of sundry persons therein named," together with the additional acts to the said two acts, and all other acts and resolves of this state, so far as they militate with, or are repugnant to the spirit and meaning of said treaty of peace and friendship, between the United States and his Britannic Majesty, shall be, and hereby are repealed and made void

Passed June
21, 1787.

AN A C T to repeal all acts, resolves and clauses of acts, repugnant to the treaty of peace between Great-Britain and the United-States.

Preamble.

WHEREAS certain laws, statutes, or resolves, made and passed in this state, prior to such treaty, are regarded and complained of, as repugnant to the treaty of peace with Great-Britain, by reason whereof, not only the good faith of the United-States, as pledged by the treaty, has been drawn into question, but their essential interests under that treaty, greatly affected: and whereas as justice to Great-Britain, as well as regard to the honor and interests of the United States, require that the said treaty be faithfully executed, and that all obstacles thereto, and particularly such as do, or may be construed to proceed from the laws of this state, be effectually removed: Therefore,

Repealing
clause.

BE it enacted by the senate and house of representatives in general court convened, That such of the acts, resolves, or parts of acts, of the legislature of this state as are repugnant to the treaty between the United States, and his Britannic Majesty, or any article thereof, shall be, and hereby are repealed.

Courts of law
directed to
decide ac-
cording to
the tenor of
said treaty.

And further that the courts of law and equity within this state, be, and hereby are directed and required in all causes and questions cognizable before them respectively, arising from, or touching the said treaty to decide and adjudge according to the tenor, true in-
tent,

tent, and meaning of the same ; any thing in said acts, resolves, or parts of acts, to the contrary thereof, in any wise, notwithstanding.

AN A C T for the support of Invalids.

Passed Jan.

WHEREAS Congress by their resolve of the seventh day of June, one thousand seven hundred and eighty-five, recommended to the several states, to make provision for the officers, soldiers, or seamen, who have been disabled in the service of the states :

10, 1787.

Preamble.

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That Joseph Pearson, Esq. be, and hereby is, appointed to make a complete list of all the officers, soldiers, or seamen, in this state, who have served in the army or navy of the United States ; and have been disabled in such service, so as to be incapable of military duty, or of obtaining a livelihood by labour, as well those now on the list of invalids, as others who may hereafter apply ; in which list shall be expressed the pay, age, and disability, of each invalid ; also, the regiment, corps, or ship, to which he belonged ; and a copy of the same shall be transmitted to the office of the secretary at war, within one year from the passing of this act ; and a like descriptive list of the invalids, resident in this state, shall annually be transmitted to the said office of the secretary of war.

J. Pearson to make a list of invalids.

No officer, soldier, or seaman, shall be considered as an invalid, or intitled to pay, unless he can produce a certificate from the commanding officer, or surgeon of the regiment, ship, corps, or company in which he served, or from a physician or surgeon of a military hospital, or other good and sufficient testimony, setting forth his disability, and that he was thus disabled while in the service of the United States.

No officer, &c. to be considered as an invalid, unless he can produce a certificate.

And be it further enacted, That all commissioned officers, within the aforesaid description, disabled in the service of the United States, so as to be wholly incapable of military duty, or of obtaining a livelihood, be allowed a yearly pension, equal to half of their pay, respectively. And all commissioned officers, as aforesaid, who

To what pay intitled.

who shall not have been disabled in so great a degree, be allowed a yearly pension, which shall correspond with the degree of their disability, compared with that of an officer wholly disabled. And all non-commissioned officers and privates, within the aforesaid description, disabled in the service of the United States, so as to be wholly incapable of military or garrison duty, or of obtaining a livelihood by labour, be allowed a sum not exceeding five dollars per month. And all non-commissioned officers and privates, as aforesaid, who shall not have been disabled in so great a degree, shall be allowed such a sum as shall correspond with the degree of their disability, compared with that of a non-commissioned officer, or private, wholly disabled.

Committee
to examine
invalids.

And be it further enacted, That Joseph Gilman, and Josiah Gilman, Esquires, and Dr. Samuel Tenney, be and hereby are, appointed to examine all claimants, and to report, whether the person producing a certificate, setting forth that he is an invalid, be such in fact; and if such, what pay he is intitled to; and thereupon the said Joseph Gilman, Josiah Gilman, and Samuel Tenney, shall give to the said invalid, a certificate, specifying to what pay he is intitled, and transmit a copy to the secretary of this state for the time being, who shall receive and record the same: provided that no officer who has accepted his commutation for half pay, shall be entered on the list of invalids, unless he shall have first returned his commutation.

Invalids to be
formed into
corps.

And be it further enacted, That his excellency the president be, and hereby is, authorized and empowered with the advice of the council, to form such invalids, under the aforesaid description, and being citizens of this state, as are capable of doing garrison duty, into corps, to be employed in guarding military stores, aiding the police, or otherwise, as the general court for the time being, shall direct; and when such corps are formed, there shall be quarterly returns, comprehending the pay, age, disability, regiment, ship, or corps, to which they severally belonged, made out and signed by their commanding officer, and transmitted to the secretary of the state; and the president, with advice of council, shall give orders for the pay of said invalids, agreeably to said returns.

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And be it further enacted, That all invalids, as well Invalids to apply to some magistrate. those formed into corps, as those who are not, shall annually apply themselves to some magistrate, in the county where they reside, or may be stationed, and take the following oath, viz.

A. B. came before me, one of the justices of the peace for the county of ———, in this state, and made oath, that he was examined by ———, appointed by said state for that purpose, obtained a certificate (or had his certificate examined and countersigned) and that he now lives in the ———, and in the county ———.

And the affidavits drawn according to the above form, and so dated and attested, shall be sent by the said magistrate, to the secretary, who is hereby appointed to receive and record the same; and a counterpart shall be preserved, by the person taking it; to be exhibited to the said Joseph Gilman, Josiah Gilman, and Samuel Tenney, and upon his receiving a certificate from them, or either of them, of the sum due to him, and lodging the same with the secretary, the president, with advice of council, is hereby empowered to give orders upon the treasurer for payment of all such sums; which orders the treasurer is directed to receive in payment of any tax payable in certificates or facilities.

And be it further enacted, That any person now in the list of invalids, who shall not apply for, and obtain, a certificate, as aforesaid, within twelve months from the first day of July last, shall not be intitled to receive any pay as an invalid, after that time. Time of application limited.

And be it further enacted, That an act, intituled, "An act for the support of invalids, passed the twenty-third day of June, one thousand seven hundred and eighty-six," be, and hereby is repealed.

AN A C T for carrying into effect an ordinance of Passed Nov. Congress of the thirteenth of September last, relating to the constitution of the United States. 12, 1788.

BE it enacted by the senate and house of representatives Three Representatives in general court convened, That the inhabitants of the several towns and parishes, plantations and places to be elected. unincorporated in this state, who are qualified to vote for

for state representatives, shall assemble in their respective towns, parishes or places on the third Monday of December next, to elect by ballot three persons having the qualifications required by the constitution of the United States, to represent this state in Congress.

And the selectmen of the several towns, parishes and places aforesaid, shall give fifteen days notice of the design of said meeting, and shall, during the choice of representatives, preside at such meetings impartially, and shall receive the votes of all the inhabitants of such towns, parishes and places present and qualified as aforesaid, and shall sort and count the same in the meeting and in presence of the town clerk, who shall make a fair record in presence of the selectmen, and in open meeting, of the name of every person voted for and the number of votes against his name, and a fair copy of this record shall be attested by the selectmen and town clerk, and shall be sealed up and directed to the secretary of this state, with a superscription expressing the purport thereof, and returned into the secretary's office, on or before the last Wednesday of December next, who shall lay the same, as soon as may be, before the senate and house of representatives, to be by them examined; and in case there shall appear to be any, or the full number returned, elected by a majority of votes, he or they so chosen, shall be declared elected; but in case there shall not be any, or the whole number elected, the general court shall make out a list of such persons as have the highest number of votes, equal to double the number of representatives wanting. And if in completing such list, it shall so happen that two or more persons voted for, shall have an equal number of votes, the names of such persons shall be put into a box, and the secretary shall draw the number wanting to complete such list.

And the names of the persons contained in such list, shall be transmitted to the selectmen of the several towns, parishes and places aforesaid, who shall thereupon warn a meeting to be holden on the first Monday of February next, giving at least eight days notice, and the inhabitants of each town qualified as aforesaid, shall out of such list, give in their votes for the number of representatives wanting.

And the selectmen and the town clerk as aforesaid, shall cause a record of the number of votes against each

man's

man's name in such list to be made, and a copy thereof attested in manner aforesaid, to be transmitted to the secretary's office on or before the twentieth of the same February.

And such votes shall be examined by the president and council for the time being, or by such of them whose names are not contained in such list. And in case it shall appear to the general court, that the names of a major part of the council are in said list, then the same shall be examined and counted by a committee chosen by the general court for that purpose : And such number of the candidates, equal to the number of representatives wanting, as shall have the highest number of votes, shall be declared elected. And in case it shall so happen, by reason of an equality of votes, a choice of the whole number or any part of the representatives wanting cannot be declared, the names of such candidates shall be put into a box, and the secretary shall draw out the number wanting : And the person or persons so drawn shall be declared elected. And the members chosen and declared as aforesaid shall be the representatives of the state of New-Hampshire in the Congress of the United States, for the term of two years from the first Wednesday of March next ; and the secretary shall, as soon as may be notify them of their appointment. And each of the representatives shall have a certificate of their election under the seal of the state, signed by the president and countersigned by the secretary.

And be it further enacted by the authority aforesaid,
That the inhabitants of the several towns and parishes, plantations and places unincorporated, qualified as aforesaid, shall on the third Monday of December next, in town meeting assembled, give in their votes for five persons, inhabitants of this state, who shall not be continental senators, representatives or persons holding offices of profit or trust under the United States, to be the electors for this state, which votes shall be taken, recorded, sealed and transmitted to the secretary's office at the same time and in like manner as votes for representatives to the Congress of the United States, as is by this act required : And the secretary shall lay such votes before the general court to be counted and examined in the same manner as votes for the representatives :

Five electors

tives : And the persons having a majority of votes, shall on the first Wednesday of January next, be duly appointed and declared elected.

And in case it shall so happen, that the whole, or any part of the number of electors, are not chosen by the people, then the general court shall take a number of names out of the candidates who have the highest number of votes, equal to double the number of electors wanting, from which the senate and house shall, in such way and manner as may be by them agreed on, proceed to appoint the electors wanting, who shall be declared the electors of this state, for the president and vice-president of the United States, and notified to attend their duty as such.

In case of a
vacancy,

And be it further enacted by the authority aforesaid, That if a vacancy shall happen in either of said cases, they shall be filled up in manner aforesaid.

The duty of
town clerks
and sheriffs.

And be it further enacted by the authority aforesaid, That it shall be the duty of the town-clerks in the several towns, parishes and places in this state, to cause the last mentioned votes for representatives, to be returned into the secretary's office, before the said twentieth of February, or delivered to the sheriffs of their respective counties, on or before the fifteenth day of said month ; whose duty it shall be, to cause the same to be lodged in the secretary's office, on or before the said twentieth of February. And the respective sheriffs and town-clerks shall be liable to the same pains and penalties for neglect of duty in this respect, as they are by law in the case of the votes for president and senators of this state.

Passed Feb.
7, 1789.

AN ACT in addition to " An act for carrying into effect an ordinance of Congress of the thirteenth of September, one thousand seven hundred and eighty-eight, relative to the constitution of the United States," passed the twelfth of November last.

WHEREAS it is necessary that some further provision should be made for filling up vacancies that may happen in the representation of this state to the Congress of the United States :

Therefore,

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That all vacancies of representatives to Congress, that shall happen by death, resignation, or otherwise, shall be filled up in the manner following, to wit : Upon notice of any such vacancy, the president for the time being, by and with the advice of council, shall issue precepts to the selectmen of the several towns and parishes, plantations and places unincorporated in this state, requiring them to warn the inhabitants of their respective towns, parishes, plantations and places, to meet on a certain day in said precept to be mentioned, to vote for a representative or representatives, to fill up such vacancy : and such meetings shall be notified, warned and governed, and the votes received, sorted, counted, certified and returned, in the same manner as the said act directs, by a certain day in said precept to be mentioned : and the secretary shall lay said votes before the president and council, at their first meeting after the same shall have been returned as aforesaid, to be by them examined : and if a choice by a majority of votes shall have been made, the same shall be declared, and the person or persons so chosen, shall be notified of their appointment, in the manner said act directs. But if no such choice shall be made by the people, then the said president and council, shall issue a new precept, which shall contain a number of names out of the candidates voted for, who have the highest number of votes, equal to double the number wanting ; in which precept, the said selectmen shall be required (on a certain day in said precept to be mentioned) to assemble the inhabitants of their respective towns, parishes, plantations and places, to give in their votes out of the number so returned by the president and council, for the representatives wanting ; which votes shall be returned at the time, and in the same manner as shall be directed in said precept, and the persons having the greatest number of votes, shall be declared elected as aforesaid.

And the respective sheriffs and town-clerks, shall be liable to the same penalties for the neglect of the duties enjoined on them, in pursuance of this act, as they are in said act.

TOWN MATTERS AND REGULATIONS.

Passed July
2, 1776.

Preamble.

AN A C T to invest the overseers of the poor, with power more effectually to employ them ; and to provide for bringing up their children more usefully.

WHEREAS there are many poor people who spend their time idly, and neglect to provide for themselves, and those who depend upon them for subsistence, by any lawful means, and neglect the care and education of their children, but suffer them to spend their time in play, idleness and a total neglect of those means by which they might be made useful members of society notwithstanding the advantages for their improvement ; by which neglect the number of beggars, as well as thieves and strollers, are increased and many disorders committed :

For remedy whereof,

Overseers of
the poor with
assent of two
justices, to
bind out idle
persons tho'
of full age.

BE it enacted by the council and assembly, That the selectmen or overseers of the poor, where such are annually chosen, in any town or parish in this colony, or the major part of them, be and hereby are impowered with the assent of two justices of the peace for the county to set to work and employ all such persons, tho' of full age, married or unmarried, of whatever age they may be, if able of body to work or perform the service to be so appointed them, who live idly, and use or exercise no ordinary and daily lawful trade, or business, by which they might get an honest livelihood and subsistence. And no single person of either sex, under the age of twenty-one years, shall be suffered to live at their own hand, or as they please, but under some orderly family government.

Poor children
to be bound
out.

And be it further enacted, That the selectmen or overseers of the poor aforesaid, or the major part of them, are hereby impower'd from time to time, by and with the assent of two justices of the peace to set to work or bind out apprentice, as they shall think best for the good of those concern'd, or are the subjects thereof, all such children, whose parents shall by the selectmen or overseers of the poor, or major part of them, be thought unable to maintain them (whether they receive alms, or are chargeable to the town or parish or

not

not) male children till they come to the age of twenty-one years, and females, till they come to the age of eighteen years, which shall be as good and effectual in law, to all intents and purposes, as any way and method of binding out apprentices whatsoever; and the said overseers are hereby ordered to make their contract and indentures for placing out such apprentices, equitably and for the benefit of such children; at least that the males be instructed to read and write; and the females to read and to do such work and business, as may be suitable to their circumstances and condition, so far as they may be respectively capable.

Children bound out to be learnt to read, &c.

And the selectmen or overseers of the poor shall inquire into the usage of children, bound out by themselves or their predecessors in said office, and endeavour to defend them from wrongs or injuries.

Overseers to inquire into the usage of children bound as aforesaid,

Provided always, That the said selectmen or overseers, shall, before they bind out any such children, not supported by the town or parish where such children belong, give their parents notice, if in the county, and direct them to bind out their children, when of an age suitable, and allow them a reasonable time for that purpose; which, if they neglect to do, or place them with persons of bad characters, which may probably be prejudicial, rather than to the advantage of the children, the said officers may then proceed to bind them out as aforesaid.

Parents to be first notified, before children are bound.

And it is further enacted, That when any person of full age, shall be so set to work, as aforesaid, if the said officers shall hire or place out any such person, they shall make their contract and agreement in writing, expressing the term which they are to serve, which shall not exceed one year at a time, but may be renewed or made for a shorter time, as there shall be occasion; and the wages or earnings of the person so hired and placed out, shall be by the selectmen and overseers, applied to his, or her support and maintenance, and of their families respectively, as far as such earnings will go.

When persons are bound out contracts to be made in writing.

And the person or persons with whom such poor, or idle, or negligent persons shall be placed, shall have the same legal authority over them, as masters of apprentices have over them during their apprenticeship.

Persons taking idle people to have authority over them &c.

And the said officers are hereby directed to give notice to such persons before they bind or place them out

Idle persons
be notified
before they
are bound
out.

as aforesaid ; and if they shall neglect usefully to employ themselves, after allowing them a reasonable time, the said officers may proceed as aforesaid.

Passed April
1, 1779.

AN A C T to enable selectmen or town-clerks to swear town-officers.

Preamble:

WHEREAS many towns and parishes within this state, are destitute of justices of the peace, to administer the oaths of office to the town or parish officers, annually chosen therein.

BE it enacted by the council and assembly, and it is hereby enacted, That the town or parish clerk, or either of the selectmen for the preceding year, within any town or parish in this state, be and hereby are authorized to administer the oath of office to the new town or parish clerk, and selectmen ; and the town or parish clerk, or either of the selectmen, being sworn, may administer the said oath of office to any town or parish officer chosen for such respective town, or parish, as effectually to all intents and purposes as a justice of the peace may do in like cases.

Passed April
6, 1781.

AN A C T in addition to the law already in force for the regulation of swine.

Preamble.

WHEREAS the law already in force relating to the regulation of swine, is found ineffectual for that purpose, and by suffering them to run at large unyoked and unringed, they prove to be a public nuisance, as well as greatly injurious to particular persons, and the owners of them are often losers by the damages those animals sustain by running in streets and highways :

Therefore,

No swine go
at large in
Portsmouth
within such
limits.

BE it enacted by the council and house of representatives in general assembly convened, That no owner or owners of any swine, shall suffer them to go at large within the compact part of the town of Portsmouth, which is hereby limited as followeth, viz. A line by the river, and running up that branch thereof, which leads to Boyd's mills, so called, and up the mill-pond to the head of the creek, and then up the high-way lead-

ing

ing to the pound from the head of the creek afore-
said, and so along the highway leading to the mill-dam,
so called, 'till it comes to the house formerly Edward
Cate's, then to run down the highway, leading to Lit-
tle-harbour, as far as that a straight line to that part of
the river called Little-harbour, will take in land lately
Samuel Monson's, on penalty of forfeiting twenty shil-
lings, in silver at six shillings and eight pence an ounce, Penalty.
or paper equivalent thereto, for each offence, for each
swine found going at large as aforesaid, to be recover-
ed by action of debt, before any justice of the peace
within this state, by any person that will inform and
sue for the same, to the use of the prosecutor, with cost
of prosecution.

And where any swine are found running at large
within the limits aforesaid, and the owner is not known, Owners un-
known.
any person may exhibit an information thereof, setting
forth the artificial marks (if any) on such swine, or the
most obvious, natural marks; and the justice shall give
the informer three notifications, who shall place them
at three different public places in the town of Port-
smouth, and shall suspend giving judgment thereon, for-
ty-eight hours next after giving such notifications;
and if no owner shall appear at the expiration of that
time, the said swine shall be forfeited; and the said jus-
tice shall declare the same to be forfeited to the use of
the poor of said town, and the justice shall give sen-
tence accordingly; (the overseers of the poor of the
town paying the justice his legal fees, and the informer
twenty shillings as aforesaid, or more, if the justice on
examining the circumstances shall think he ought to
have more, for his time and trouble for proceeding
and attending therein) but if the overseers refuse so to
do, the informer may sell the same to the highest bid-
der, and the allowance to him being made as aforesaid,
shall pay the overseers half the net profit thereof, for
the use of the poor, as aforesaid. But if any owner
shall appear and claim said swine, he shall be subject to Owner known
the penalty first above-mentioned, as the matter upon
examination and trial shall appear to the justice afore-
said. And any person exhibiting such information,
shall hereby have full power to take up such swine, and
keep them in custody until the case shall be determined
as aforesaid; and if the owner shall be acquitted, and
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the swine restored, the said informant shall not be subjected to any action or damages for taking up and keeping such swine in custody, as aforesaid.

No swine to
go at large
unless yoked
and ringed.

And be it further enacted by the authority aforesaid,
That no swine shall be suffered to go at large within this state, without being yoked and ringed according to law by the owner thereof, on penalty of the forfeiture of three shillings in silver at the rate aforesaid, or paper equivalent thereto for each swine, for each offence, to be recovered of the owner or owners of such swine in an action of debt, before any justice of the peace, by any person that will inform and sue for the same, with cost of prosecution, except it shall appear such swine were accidentally let out, and in case the owner of swine so found going at large, shall not be known to the party finding them, he shall hereby have power to impound them, and shall give notice in the town or parish where they shall be so impounded, and in the two next towns, by causing a notification thereof, with the natural and artificial mark (if any) of such swine, and by whom impounded, to be posted in some public places in the respective towns aforesaid, and if no owner shall appear within six days after such notifications are set up, or appearing shall refuse to pay the penalty aforesaid, with charges of impounding and supporting the said swine, which the impounder shall cause to be done; then the party impounding said swine may apply to a justice of the peace who is hereby ordered and directed to issue a warrant of appraisement to two suitable persons to appraise the said swine upon oath (by him to be administered) of their impartiality therein. And the impounder may take such swine to his own use, as in the case of impounding creatures taken damage feasant, which are not replevied at the appraised value, observing the directions of the law in that case; and the party impounding any swine by virtue of this act shall be allowed all reasonable cost and charges for his trouble, assistance, time in driving and charge in supporting the said swine as aforesaid, to be adjusted by the justice that grants the warrant of appraisement; and if no owner shall appear, and there remains any overplus money, the same shall be delivered to the justice, who shall order the appraisement as aforesaid, to be by him paid and delivered to the overseers of the poor
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of such town or parish where the impounding is, for the use of the poor there: And the hog-reaves of each town and parish are hereby required to see this act duly observed, on penalty of five shillings like money, to be recovered of them for each neglect, by any person that will sue for the same.

Duty of hog reaves.

Provided nevertheless, That in any town or parish (having the powers and privileges of towns) where there is common and undivided land or lands lying in common and unfenced, where swine may feed to their advantage, such town or parish may, at their annual meetings, yearly agree upon any method for regulating the swine within the same for that year, and carrying the same into execution, upon such pains and penalties; as shall be adequate to that end.

Provided also, That a common train-field, burying-yard, landing-place, or lands left common for the use of the inhabitants, about any meeting-house, or such like common of small parcels of land, shall not be construed to be within the proviso aforesaid.

Provided further, That no swine shall be permitted to go at large under the penalties aforesaid, without being well ringed in the nose, notwithstanding the liberty above declared.

And whereas by the law above referred to, the impounder may take the creatures not replevied at the appraised value, which if over praised may be injurious to him :

Therefore be it enacted, That in all cases of impounding where no replevin is executed, the impounder shall have his election either to take such creatures at the appraised value, or may expose them to sale by public vendue (giving twenty-four hours public notice beforehand of the time and place of the intended sale) accounting for the overplus (if any) according to law.

And it is hereby enacted, That no yoke shall be accounted sufficient, which is not the full depth of the swine's neck, above the neck, and half so much below the neck, and the sole or bottom of the yoke, to be three times so long as the thickness of the swine's neck.

Passed April
6, 1781.

AN ACT to regulate the proceedings for extinguishing fires that may be accidentally, or otherwise kindled among buildings, to prevent the keeping fires in unsuitable houses and places, to preserve goods endangered by such fires, and to remove or demolish buildings judged to be dangerous to the public safety.

Preamble.

WHEREAS it frequently happens when buildings contiguous take fire, that the people assembled to extinguish it, proceed without order or regularity, whereby the end in view is often defeated. And as goods at such a time are inevitably exposed to plunder, some hardy, evil-minded persons take advantage of the calamity and steal such goods, whereby the loss of such sufferers is increased; and the laws of this state respecting the proceedings to extinguish fires, &c. being found ineffectual for the purposes for which they are made :

Therefore,

Former law
concerning
fires repealed

BE it enacted by the council and house of representatives for said state, in general assembly convened, That all and every law of this state, and every clause therein respecting the extinguishing such fires, and proceedings thereat, be and hereby are repealed and declared null and void.

Choosing fire-
wards.

And be it further enacted by the authority aforesaid, That the freeholders and other inhabitants of Portsmouth, in the county of Rockingham, and state aforesaid, being qualified voters, may at their annual or other legal town meeting, chuse and appoint any suitable number of freeholders therein, being persons of approved ability and fidelity, who shall be denominated firewards, and have for a distinguishing badge of their office, a staff of five feet long, painted red, and headed with a bright brass spire six inches long. And the firewards afore-mentioned, are hereby required, upon notice of the breaking out of fire in said town, to take with them the badges of their office, and immediately repair to the place where such fire may be, and vigorously exert themselves, and require and demand assistance of any inhabitants of said town to extinguish and prevent the spreading of such fire, and to remove goods and effects out of any houses or places endangered thereby. And the firewards may appoint necessary guards to secure and take care of such goods and effects.

Their badge.

Their duty.

And

And the said firewards are hereby impowered to require and demand assistance from said inhabitants to pull down, blow up, or remove any house or buildings, provided it shall be thought necessary by a majority of the firewards then present, for the preventing of the spreading and progress of such fire, and they are hereby impowered to suppress with force, if necessary, all tumults and disorders, and to order and direct the labour of all persons present during the continuance of the fire, and the inhabitants aforesaid are hereby required to yield due obedience thereto. And if any such inhabitant shall refuse or neglect to obey the orders of such firewards, or any of them in a time of fire, acting within his limits, and in a matter whereunto his office relates, such offender shall upon due conviction thereof pay a fine not exceeding ten pounds; provided such offender be prosecuted therefor within six months from the time of committing the offence.

Their power.

Duty of the inhabitants.

And be it further enacted, That if any person shall assume the office of a fireward, not being thereunto legally chosen as aforesaid, or shall use the badge aforesaid, he shall be liable to pay a fine of fifteen pounds.

For assuming the office of fireward.

Be it further enacted, That if any evil-minded person or persons shall take advantage of such calamity to plunder, embezzle, convey away, or conceal any goods or effects of any inhabitant of, or resident in said town at the time of such fire, and shall not restore or give notice thereof to the owner or owners, if known, or bring said goods or effects to some place appointed by the firewards within the space of five days after proclamation for that purpose, the person or persons so offending and being convicted thereof, shall suffer the same pains as by law provided in case of theft; and the penalty of ten fold the value of the goods so plundered, embezzled or concealed.

For carrying away goods.

And be it further enacted, That the major part of such firewards present at any such fire, are hereby impowered to cause any houses or buildings to be pulled down, blown up, or removed as they shall judge necessary to stop the progress of such fire. And if by destroying any such houses or buildings as aforesaid, the fire shall be stopped, or if the fire shall be stopped before it reach the same, every owner of such house or building shall receive a reasonable satisfaction for the damages sustained

Firewards to cause houses to be pull'd down.

ed

Compensation to sufferers in case.

Application to general sessions.

ed thereby, to be paid by the other inhabitants of said town; to which end the selectmen of the town for the time being, on application, are hereby ordered to compute and adjust the value of said house or building, and the damage sustained by the destruction thereof as aforesaid, according to equity; and to assess the polls and estates in said town liable to make good such value and damage, in a just proportion as for other town taxes, which shall be levied as other town taxes are. And if such selectmen shall refuse or neglect to adjust said damages, or to make adequate compensation for such loss, the party aggrieved may apply to the court of general sessions of the peace for said county at the expiration of three months after such damages sustained, for redress; which court are hereby empowered to support, hear and determine such complaint, and give judgment thereon according to equity; and in case they find the complainant just, shall render judgment for the complainant for adequate damages and costs, for which they shall assess the said inhabitants, except the complainant, in manner as the law directs the selectmen to do for other town rates, which shall be levied and collected in the same manner as other town taxes, and paid by the collector to the complainant. But it is to be understood, that if the house or building wherein, or whereat the fire began, be pulled down, or blown up by order of said firewards, or when any other house or building shall be pulled down, or blown up by order of said firewards to stop the progress of the fire, and it is not stopped thereby, and it appears to the firewards that the same must have been absolutely burnt had it not been pulled down, or blown up; in such case, the owner of any such house or building shall not be intitled to such compensation as aforesaid.

Firewards to view houses, &c.

Be it further enacted, That the firewards of said Portsmouth, or the major part of them, are hereby empowered to inspect and search all houses and places within their limits, wherein they apprehend any danger may arise for want of repairs of buildings or chimneys, or from not laying a good foundation for fireplaces, or by reason of bad chimneys, or hay, or other combustible matter being so near or so exposed to fire as to be likely to take fire thereby and communicate it, in all or any of which cases, it shall be the duty of the

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the said firewards to inspect and search as aforesaid, and to order the owner or occupant of any such dangerous houses, chimneys or places, to make such amendments, repairs and alterations therein, as the said firewards shall judge necessary for the public safety, which shall be made accordingly within thirty days (unless the firewards think fit to lengthen that time) from the time of giving notice to the owner or occupant. And if the same shall not be done according to such order, then the said firewards or major part of them, are hereby empowered to cause the same to be done, and the selectmen of said town for the time being, are hereby required to furnish money for that purpose. And the said selectmen in behalf of the town shall have and maintain an action against the owner or occupant aforesaid for the money so advanced, and the reasonable services of said firewards in causing the same to be done; which action the said selectmen shall recover double costs. And every such decayed building in which the owner does not dwell or occupy, which said firewards apprehend to be dangerous and not worth repairing, they may cause the same to be demolished, at the cost of the owner or occupant, to be recovered as aforesaid; but the materials shall remain for the use of the owner, except when the owner or owners live out of this state, and there is no occupant in said decayed and dangerous buildings, the charge of demolishing such buildings shall be defrayed by sale of the materials; and the overplus money (if any) after deducting said charge and expence of sale, shall be deposited in the hands of the selectmen of said town, for the use of said owner or owners.

To order repairs.

If not by owners then by firewards at his charge.

Buildings not worth repairing to be demolished.

And any tenant who shall be obliged to pay any sum of money by virtue of this act, where his lessor ought to have paid the same, shall be allowed for the same out of the rent of the tenement he holds, and may justify the withholding so much from the owner or person to whom the same is payable, unless the parties concerned shall otherwise agree and adjust the matter.

Owners of such building to pay the costs.

And be it further enacted, That every house of two stories high, which has four fire-places, shall be provided with one leather bucket; every such house having six fire fire-places, shall be provided with two such buckets, and having eight or more fire-places, with four buckets as aforesaid, fit for and to be used in the case of

Buckets to be provided.

of the breaking out of fire ; which buckets shall be provided and constantly kept for the use aforefaid, at the charge of the owner of every fuch houfe. And every houfe fhall have thereon a good fecure ladder or ladders, reaching from the ground to the ridge-pole, provided by the owner or occupant ; and if provided at the charge of the occupant to be allowed as aforefaid. And if any perfon or perfons fhall neglect to provide and keep faid buckets and ladders as before required herein, each perfon fo offending fhall pay two pounds for every three months neglect therein. And the faid firewards are hereby authorized to examine and determine as to the obfervation and compliance with this act, and fhall be allowed as competent witneffes in any fuit that may be commenced for any forfeiture incurred by virtue of this act. And all fuch fines and forfeitures fhall be applied by the firewards to purchafe tools and instruments proper to be ufed at fuch fires as may accidentally or otherwife happen in faid town.

And whereas it may not be neceffary at prefent to oblige the owners of houfes fituated at a diftance from the compact part of faid town, though within the limits thereof, to provide buckets as this act directs.

And whereas there may be fome perfons within the compact part of the town unable to procure fuch buckets within the time prefcribed :

Firewards to
excufe where
they judge
proper.

Therefore be it enacted, That it fhall be in the power of the firewards as they fhall judge proper, to excufe the owners of any fuch detached houfes from providing fuch buckets ; and alfo to grant a further time not exceeding one year, to fuch perfons living in the compact part of faid town, as the firewards fhall judge unable to procure fuch buckets at prefent, and to fubftitute other kind of buckets for that end in the mean time.

That all fines and penalties inflicted by this act, be deemed and taken in filver money at the rate of fix fhillings and eight pence per ounce, or the value thereof in any current paper bills of credit.

And be it further enacted, That any town or towns in this ftate, at their annual meeting, or any other meeting called for that purpofe, may adopt the aforefaid act ; in which cafe it fhall be confidered to extend to fuch town or towns adopting the fame, as fully to all intents and purpofes as to the town of Portsmouth.

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AN ACT to impower the several towns and parishes in this state, to choose new constables and collectors, in the room of such constables and collectors as have deceased, or may hereafter de cease, or have absconded, or shall, hereafter abscond, without completeing the collection of the taxes committed to them ; and to authorize such new elected constables and collectors to complete such collection. Passed Dec. 25, 1786.

WHEREAS by the decease of constables and collectors, before the collection of the taxes to them committed is completed, great injuries often arise to the public. Preamble.
And by the absconding of constables and collectors, without having collected the taxes to them committed, equal injuries may happen :

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That upon the decease of any constable or collector, to whom any rate list, or rate lists, have, or shall be, committed, which remain in whole, or in part, uncollected, the selectmen of such town or parish be, and hereby are impowered, to notify a meeting of the inhabitants, qualified by law to vote in the choice of constables and collectors, and to proceed to the choice of a new constable or collector, who is hereby impowered to levy and collect such taxes as remain outstanding at the time of the decease of the former constable or collector, in the same manner as other constables or collectors are by law impowered to do. Selectmen to notify a meeting, to choose new constables.

And be it further enacted, That the selectmen of such towns and parishes as are authorized by the respective towns and parishes, may agree with any person or persons to complete the collection of such taxes as may remain outstanding, as aforesaid ; and the person or persons so agreed with, is hereby impowered to levy and collect the same, as fully and effectually as any constable or collector is by law authorized to do, by the laws of this state ; and shall be answerable for the taxes outstanding at the time of the death of the former constable or collector, in the same manner as other collectors are by law answerable for the taxes committed to them to collect. And the executor or administrator of the former constable or collector, shall be answerable for all sums received by their testator or intestate in his life time. Selectmen to agree with any person to collect taxes.

And

Constables
absconding,
others may
be appointed
to collect
taxes,

And be it further enacted, That when any constable or collector shall abscond, without having collected the taxes to them committed, other constables or collectors may be appointed in the manner aforesaid, to complete the collection, and shall have all the power and authority given to other collectors of taxes by the laws of this state.

Passed Feb.
28, 1786.

AN ACT to prevent the keeping of large quantities of gun-powder in private houses in Portsmouth, and for appointing a keeper of the magazine belonging to said town.

Preamble.

WHEREAS the keeping of large quantities of gun-powder in private houses in Portsmouth, aforesaid, or in merchant ships, or vessels lying at the wharves in said town, would greatly endanger the lives and properties of the inhabitants thereof, in case of fire; which danger might be prevented, by obliging the owners of such powder, to deposit the same in the magazine provided by said town for that purpose.

Therefore,

Gunpowder
not to be
kept in dwelling
houses,
&c.

BE it enacted by the senate and house of representatives in general court convened, That if any person or persons, shall keep in any dwelling-house, store or other building, on land, within the limits of said Portsmouth, except the magazine aforesaid, more than ten pounds of gun-powder at any one time, which ten pounds shall be kept in a tin cannister properly secured for that purpose, such person or persons shall forfeit the powder so kept, to the firewards of said Portsmouth, to be laid out by them in purchasing such utensils as they may judge proper for the extinguishing of fire: and the said firewards are hereby directed and impowered to seize, and cause the same to be condemned in any court of law record proper to hear and try the same, to be disposed of for the purchase aforesaid. And the offender shall also forfeit and pay a fine for the use of the poor of said Portsmouth, equal to the value of the powder so kept in any store, dwelling-house, or building; which fine, shall be sued for and recovered by the overseers of the poor of said Portsmouth, for the use of said poor, in any court of law proper to try the same.

Fine.

And

And be it further enacted by the authority aforesaid, That every master of any merchant ship or vessel, bringing gun-powder into said Portsmouth, shall, within the space of forty-eight hours after his arrival, deposit in said magazine, all the gun-powder by him so brought as aforesaid: and if he shall neglect so to do, he shall pay a fine of thirty pounds, for the use of the poor of said Portsmouth, to be recovered by said overseers, in manner aforesaid.

Gunpowder-
to be deposi-
ted in the
magazine.

And be it further enacted, That there shall be chosen annually, or oftener if necessity require, by the inhabitants of said Portsmouth, being legal voters, a keeper of said magazine, whose duty it shall be, to receive into, and deliver out of said magazine, all the powder so deposited, and to account therefor, who shall have a right to demand and receive for his time and trouble in attending on said business, at the rate of one shilling per hundred weight, for all quantities of powder above ten pounds, that he shall so receive into and deliver out of said magazine; and for all quantities under ten pounds at the rate of a half-penny per pound.

A keeper of
the magazine
to be chosen.

TRADE and MANUFACTURES REGULATED, &c.

AN ACT for making gold and silver a tender for all debts, and for settling the depreciation of the paper currency; and for the future regulation of the courts of justice in this state.

Passed Sept.
1, 1781.

WHEREAS paper bills have been a lawful tender for all debts, the value of which is by their depreciation become uncertain, and it is necessary that a more permanent and fixed medium should be established as a tender:

Preamble.

BE it therefore enacted by the council and house of representatives, in general assembly convened, and by the authority of the same it is hereby enacted, That all contracts which shall hereafter be made for lawful money, shall be considered as made for Spanish milled dollars at the rate of six shillings per dollar, or other silver and gold in proportion. And all debts due before the last day of January one thousand seven hundred and seventy-seven, shall be considered as of the same value

How contracts
for lawful
money shall
be estimated.

How contracts
for paper
money shall
be estimated.

and paid accordingly ; and a tender of gold or silver for such debt at the rate aforesaid, shall be judged legal. And all contracts for paper money from the last day of January one thousand seven hundred and seventy-seven, to the last day of June one thousand seven hundred and eighty-one, shall be computed and paid according to the following table or scale—which scale is considered as calculated for the last day of each month, and the daily depreciation to be computed in the same proportion.

Continental paper. in 1777.	Continental paper. 1778.	Continental paper. 1779.	Continental paper. 1780.	Continental paper. 1781.					
January, equal	325	100	742	100	2934	100	7500	100	
February, 104	100	350	do.	868	do.	3322	do.	7500	do.
March, 106	do.	375	do.	1000	do.	3736	do.	7500	do.
April, 110	do.	400	do.	1104	do.	4000	do.	7500	do.
May, 114	do.	400	do.	1215	do.	4800	do.	7500	do.
June, 120	do.	400	do.	1342	do.	5700	do.	12000	do.
July, 125	do.	425	do.	1477	do.	6000	do.		
August, 150	do.	450	do.	1630	do.	6300	do.		
Septem. 175	do.	475	do.	1800	do.	6500	do.		
October, 275	do.	500	do.	2030	do.	6700	do.		
Novem. 300	do.	545	do.	2308	do.	7000	do.		
Decem. 310	do.	634	do.	2393	do.	7300	do.		

And to discourage the multiplying of suits :

Be it enacted by the authority aforesaid, That the justices of the several courts within this state, be and they hereby are impowered to continue and suspend giving judgment upon any suits or actions brought before them for the recovery of debts due on contracts from time to time, not exceeding the term of two years as they shall judge reasonable upon considering the respective circumstances of each suit, unless the creditor shall choose to have judgment rendered in bills of the new emission, in which case the judges of the several courts are hereby impowered to make up judgment after the rate of one dollar and seven eighths of a dollar in said bills, for one Spanish milled dollar.

Exception.

Securities
given for ar-
ticles specifi-
ed.

And whereas securities are often given for other articles besides money, and in this scarcity of gold and silver it may be very injurious to debtors to be obliged immediately to raise gold and silver to discharge the same :

Be it therefore enacted, That in such cases it shall and may

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may be lawful for the several courts in making up judgment to order the debtors to deliver the articles specified in their respective securities by a certain day not exceeding the term of three months from the time of giving judgment, and in default, that execution shall issue for the value in silver and gold. Judgment may be rendered for said articles by a certain time.

And be it further enacted by the authority aforesaid, That the fees taken by the courts and officers of this state be the same as were established by an act of the legislature of the late province of New-Hampshire, passed the 12th day of March, 1768, intituled an act in amendment of the acts for establishing fees belonging to the several officers in this province. Fees.

AN ACT ascertaining the rates at which coined silver and gold, and English half-pence and farthings may pass within this state. Passed Feb. 12, 1785.

WHEREAS the rate of gold has been altered by the legislature of several of the United States, and it now passes at an higher rate in most of them, than it does in this state, whereby the circulating currency has been diminished, and there is great danger that all the gold now passing, will be sent out of the state, and it is also useful to establish the rate of certain silver coins: Preamble.

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That in the payment of all taxes, which shall hereafter be received into the treasury of this state, and in payment of all debts, coined gold and silver shall be received, and be a lawful tender at the rates following; to wit—An English or French crown, at six shillings and eight pence, and all divisions of such crowns in proportion—A Spanish milled dollar at six shillings, and all divisions of such dollars in proportion—An English guinea, of the weight of five penny weight and six grains, at twenty-eight shillings, and all divisions of such guineas in equal proportion—A French guinea, of the weight of five penny weight and six grains, at twenty-seven shillings and four pence—A coin of Portugal, commonly called a johannes, of the weight of eighteen penny weights, at four pounds sixteen shillings, and all Enacting clause.

all divisions of such johannes in like proportion—A moidore of the weight of six penny weight, eighteen grains, at thrity-six shillings, and all divisions of moidores in like proportion—A four-pistole piece, called a doobloon, of the weight of sixteen penny weight, twelve grains, at four pounds eight shillings, and all divisions of the same coin in like proportion—Three English farthings at a penny, and English half-pence in proportion.

And be it further enacted by the authority aforesaid, That all pieces of coined gold, before herein enumerated, and which shall weigh more or less than is by this act established, as their current weight, shall be received in payment for the taxes hereafter, to be received into the treasury of this State, and in all debts, for a sum proportioned to the value of gold, as hereby stated, to wit, at five pounds six shillings and eight pence by the ounce; any law, usage, or custom to the contrary notwithstanding.

Repealing
clause.

Be it further enacted, That all former laws of this state, touching the regulation of gold or silver coin, be and hereby are repealed.

Passed June
21, 1785.

The president
with advice
of council, to
appoint surveyors
of
boards, &c.

AN ACT for the admeasurement of boards, and for regulating the sale of shingles, clap-boards, hoops and staves; and for other purposes therein mentioned.

BE it enacted by the senate and house of representatives in general court convened, That the president, with advice of council, appoint as often as occasion may require, a surveyor or surveyors, in the towns of Portsmouth, Dover, Durham, Somersworth, Newmarket, Exeter, and any other town or towns within this state, which shall apply for the appointment of the same, who shall survey and measure boards, plank, spars, timber, slitwork, shingles, clap-boards, staves and hoops, and who shall be sworn to the faithful performance of the trust reposed in them. And all boards, plank, spars, timber, or slitwork, offered to sale, shall, previous thereto, be surveyed, and also measured, by one of the said surveyors, where he shall have any doubt of the measure, having due consideration for drying and shrinking, who shall also mark a-new all such, to the just contents thereof,

thereof, making reasonable allowance for rots, knots, and splits. And the buyers shall pay to the surveyor six-pence per thousand feet, for viewing only and six-pence per thousand feet more for measuring and marking, and so in proportion for a less quantity.

Boards to be square edged and one inch thick.

And be it further enacted by the authority aforesaid, That no pine boards shall be shipped for exportation to a foreign market, but such as are square-edged, and not less than one inch in thickness, and not less than ten feet in length, on pain of being forfeited to the use of the town where they shall be shipped.

And be it further enacted, That no shingles, clapboards, staves or hoops, shall be offered for sale, in any town in this state, that shall be under the following dimensions, viz. All shingles shall be split cross ways the grain, and be eighteen inches long, except those made for home use; pine shingles shall be free from sap, and all shingles shall be free from shakes and worm holes, and shall be half an inch thick at the butt end, when green, and full three-eighths of an inch thick when thoroughly seasoned, if for exportation to a foreign market; and not less than one-third of an inch thick at the butt, when fully seasoned, if for home use, and four inches and an half wide, on an average, and none less than three inches wide, and shall hold their width three-fourths of the way to the thin end, and be well shaved; and each bundle shall contain two hundred and fifty shingles, or, if bound in square bundles, shall contain twenty-five courses, and measure twenty-two inches and an half at the lay; and in case there should be more than five shingles in any one bundle, that are not of the above length, breadth and thickness, or five short in the tale of any one bundle of two hundred and fifty, the bundle that is so deficient, or in which such shingles are contained, shall be forfeited, and the shingles in each bundle, which are not merchantable, shall be burnt, and the residue sold; and the monies arising from said sale, shall be paid into the hands of the selectmen, for the benefit of the poor of such town where the shingles are so condemned, first deducting therefrom the charge of culling and surveying.

Dimensions of shingles.

And all white oak butt staves shall be, at least, five feet in length, five inches wide, and one inch and a quarter thick

Butt staves.

thick on the heart or thinnest edge, and every part thereof.
Pipe staves. And all white oak pipe staves shall be, at least, four feet and eight inches long, four inches broad in the narrowest part, and not less than one inch thick on the heart or thinnest edge.

Length of hoghead staves. And all white oak hoghead staves shall be, at least forty-two inches long, and not less than three-quarters of an inch thick on the heart or thinnest edge.

Barrel staves. And all white oak barrel staves, for foreign market, shall be thirty-two inches long, and, for home use, shall be thirty inches long, and all shall be half an inch thick on the heart or thinnest edge.

Breadth of hhd. and barrel staves. And all white oak hoghead and barrel staves shall be, at least, one with another, four inches in breadth, and none less than three inches in breadth in the narrowest part, and those of the breadth last-mentioned, shall be clear of sap.

Red oak hhd. and barrel staves. And all red oak hoghead and barrel staves, shall be of the same length, width, and thickness with the white oak hoghead and barrel staves above-mentioned.

Dimension of clap-boards. And all staves shall be well and proportionably split; and all pine clap-boards, that shall be exposed to sale, shall be made of good sound timber, clear of sap, and all clap-boards shall be free from shakes and worm holes, and of the following dimensions, to wit: full five-eighths of an inch on the back or thickest part, five inches wide, and four feet six inches long, and they shall be strait and well shaved.

Hhd. hoops. And all hoghead hoops, that shall be exposed to sale, shall be from ten to fourteen feet long, and shall be made of white oak or walnut, and of good and sufficient substance, well shaved: those made of oak shall not be less than one inch broad, at the least; and those made of walnut shall not be less than three-quarters of an inch broad at the least; and each bundle shall consist of thirty hoops; and all hoops of ten, twelve, and fourteen feet respectively, shall be made up in distinct bundles by themselves; and if any hoops are packed, of less dimensions than those prescribed by this law, or if any bundle shall contain less than thirty hoops, such bundle shall be forfeited, and sold for the benefit of the poor of the town where it is offered for sale.

Hhd. heading And all white oak hoghead heading, which shall be offered to sale within this state, or exported to a foreign

sign market, shall be one inch thick, thirty inches long, and not more than five pieces to a head.

All shooks shall be forty inches long, and not less than two inches and an half wide at the ends, and full half an inch thick when dressed.

And be it further enacted, That the surveyor of shingles and clap-boards, shall be allowed by the buyer, three pence per thousand, for surveying and telling; and before any shingles are sent from the town where they are made, or at the place of first sale, before their delivery, they shall be viewed, surveyed, and measured by a sworn surveyor, and a brand, with the letters N. H. to be provided by each town wherein such surveyor is appointed, shall be set upon the hoop of the bundle. And all shingles offered for sale, without being surveyed and marked, as aforesaid, shall be forfeited and disposed of, as before in this act is provided.

Shooks.
Fee for surveying shingles and clap-boards.

And there shall be two or more suitable persons chosen by the town of Portsmouth, at their annual meeting in March, to be viewers and cullers of staves and hoops, who shall be under oath, faithfully to discharge their office; and they shall be allowed, for their time and service, as follows, to wit: one shilling and eight pence per thousand, for barrel staves; two shillings per thousand, for hoghead staves; two shillings and four pence per thousand, for pipe staves; two shillings and eight pence per thousand, for butt staves, as well refuse as merchantable, the merchantable to be paid for by the buyer, and the refuse, by the seller; and two shillings per thousand for heading: and the culler shall be allowed one farthing for each shook, and three shillings per thousand, for hoops.

Viewers and cullers to be appointed.

Their fees.

And be it further enacted, That from and after the first day of June next, all staves that shall be exported from this state, beyond sea, shall be first culled, and all hoops, first viewed and surveyed by one of the officers aforesaid, and a certificate given by a culler or surveyor, to the master or commander, of the ship or vessel on board which they are laden, of the quantity by him so culled or surveyed; and the bands with which the bundles of hoops are bound, shall be sealed with the brand of the town from whence they are exported: and that all shingles and clap-boards that shall be exported beyond sea, shall likewise be certified by one of the surveyors

All staves and hoops, for exportation, to be first culled and surveyed, and a certificate thereof given

Penalty for delivering boards, &c. before they are culled or surveyed ;

also a penalty for receiving, &c. &c.

The master or owner, before clearing, to produce a certificate.

Forfeiture for shipping off boards, &c. before they are culled or surveyed.

surveyors already required by law to be chosen, to have been by him surveyed, viewed, and approved, and the number or quantity thereof ; and any sellers of boards, staves, hoops, shooks, heading, clap-boards, or shingles, that shall deliver any of said articles for exportation, before they are culled or surveyed, shall forfeit one quarter part of the articles so delivered ; and any person purchasing, for exportation, any of the articles before enumerated, and who shall receive them before they are culled or surveyed, shall forfeit one quarter part of the articles so purchased, one half to the informer, who shall sue for the same in any court in this state, proper to try the same, or before any justice of the peace in the county where the said penalty shall become due, in case the forfeiture does not exceed forty shillings ; the other half to the poor of the town where the offence is committed.

And be it further enacted, That from and after the said first day of June next, the master or owner of any vessel, having any staves, hoops, shooks, boards, clap-boards, shingles, or heading, on board, for their cargo, and which shall be shipped for exportation to a foreign market, after the said first day of June next, before such vessel shall be cleared at the naval-office, shall produce a certificate that such staves, hoops, shooks, boards, clap-boards, shingles and heading, have been culled or surveyed, and shall likewise make oath, before the naval-officer (who is hereby required and impowered to administer the same) or before any justice of the peace, who shall give a certificate of said oath, which shall, by the master or owner, be transmitted to the naval-officer, that the boards, staves, hoops, shooks, clap-boards, shingles and heading, on board his vessel, are, bona fide, the same, certified to have been culled or surveyed, and that he has no other on board, and that he will not take any others on board.

And be it further enacted, That from and after the first day of June next, if any person shall presume to ship off any boards, staves, hoops, shooks, clap-boards, shingles or heading, unless the same shall have been first culled or surveyed, and marked by a sworn culler or surveyor, as by this act required, he shall forfeit one quarter part of such articles, to be disposed of, one half to the poor of the town where the offence is committed,

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ed, and the other half to the surveyor, or any person or persons who shall sue for the same; which he or they are enabled to do by action, bill, plaint, or information, in any court proper to try the same.

And be it further enacted, That in case any culier or surveyor shall connive at, or allow of the breach of this act, or shall be guilty of any fraud or deceit, in surveying or culling of boards, staves, hoops, shooks, clap-boards, shingles, or heading, he shall forfeit and pay the sum of ten pounds for each offence; and in case of his refusal to attend the aforesaid service, when he shall be thereto requested, he shall forfeit and pay the sum of twenty shillings; the forfeitures and penalties to be recovered and disposed of as aforesaid.

Penalty on the surveyor neglecting his duty.

And the standard for the thickness of merchantable plank, shall be two inches; and when any shall be purchased for particular use, of different thickness, it shall be admeasured and calculated by that standard.

Thickness of plank.

And be it further enacted by the authority aforesaid, That all acts heretofore made, for the admeasurement of boards, and for regulating the tale and dimensions of shingles, clap-boards, hoops, shooks, staves, and heading, be, and they are hereby repealed.

Repealing clause.

This act not to be in force until the first day of June next.

AN ACT to regulate flax-seed, pot-ash, and pearl-ash, for exportation. Passed June 23, 1785.

BE it enacted by the senate and house of representatives in general court convened, That no flax-seed shall be shipped or exported out of this state, but such as shall have been surveyed, and found to be well cleaned, and in good order, and in casks, each cask containing seven bushels and one peck, or in casks containing one half the said quantity each.

No flax-seed to be exported until surveyed.

And be it further enacted, That the president, by and with the advice and consent of the council, be, and hereby is impowered, to appoint in such sea-port towns within this state, as there shall be occasion, one or more skilful and disinterested person or persons, to be surveyors, for the surveying and proving flax-seed, who shall be sworn to the due and impartial execution of their

The president with advice, to appoint surveyors of flax-seed.

their trust : and their duty shall be, to inspect and survey all flax-seed that shall be intended to be laden on board of any vessel, for foreign exportation ; and every such surveyor is hereby authorized, to open the casks containing the said commodity, intended to be exported as aforesaid, and if need be, measure and shift the same into other casks, so as thoroughly to examine the whole, and see that it be clear from mixture of wild or other seed or dirt, and of the measure aforesaid. And every cask containing the said quantity, which by such survey and examination shall, according to the surveyor's best judgment, appear to be cleansed as aforesaid, he shall mark or imprint, with a burning iron, the following mark or letters, A. P. with the name of town where it shall be thus approved, the name of the said surveyor, at large, and the letter S. at the end thereof, denoting that the same has been surveyed and approved.

No pot-ash,
&c. to be ex-
ported until
assayed.

And be it further enacted by the authority aforesaid, That no pot-ash or pearl-ash shall be shipped or exported out of this state, but such as shall have been assayed, and found to be of sufficient strength and purity, and to have those qualities in such degree of perfection as shall be ascertained and fixed by the president, with the advice and consent of the council, as the standard of such pot-ash and pearl-ash as shall be deemed merchantable, and fit for exportation.

Assay masters
to be
appointed.

And be it further enacted, That the president and council be, and they are hereby empowered, to appoint, in such seaport towns within this state, as there shall be occasion, one or more skilful and disinterested person or persons, to be assay-masters, for the proving and assaying pot-ash and pearl-ash, who shall be sworn to the due and impartial execution of their trust ; and their duty shall be, to inspect and assay all pot-ash and pearl-ash that shall be brought to any such seaport town to be shipped : and every such assay-master, is hereby authorized to open the casks or vessels containing those commodities, and to take out so much thereof, as may discover the quality of the whole ; and every cask or other vessel of pot-ash or pearl-ash, which, by such assay, shall be found to be good and merchantable, according to the rule or standard that shall be established as aforesaid, he shall mark or imprint with a burning

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burning iron, the following mark or letters, A. S. D. with the name of the town where the same shall have been thus assayed, and the assayer's name at large, and the letter A at the end thereof, denoting that the same has been assayed and approved.

And be it further enacted, That, if the owner of any flax-seed, pot-ash, or pearl-ash, or other person employed by him, shall presume to lade, or put on board any vessel, bound out of this state, any flax-seed, pot-ash and pearl-ash, other than such as shall have been approved by a surveyor or assay-master respectively, or shall be contained in any cask or other vessel, that shall not have their marks, stamps, or brands upon it; or if any master of a ship, or other vessel, or other officer or mariner, shall receive on board any such, the offender or offenders shall incur the penalty of five pounds for each cask, or other vessel so shipped; to be sued for and recovered in any court of record within this state, proper to try the same: and all such flax-seed, pot-ash, and pearl-ash (laded or received on board as aforesaid) shall be forfeited. And it shall be lawful for any justice of the peace, upon information given of any flax-seed, pot-ash, or pearl-ash, put on board any such ship, or other vessel, as aforesaid, not marked as aforesaid, to issue his warrant, directed to the sheriff, or his deputy, or constable, requiring them respectively to make seizure of any such flax-seed, pot-ash, or pearl-ash, shipped and not marked as aforesaid, and to secure the same in order for trial; and such officers are hereby respectively impowered and required to execute the same.

Penalty for putting or receiving on board, before surveying and marking.

And be it further enacted, That if, after any cask or other vessel, containing flax-seed, or pot-ash, or pearl-ash, shall have been approved and stamped with the surveyor's or assay-master's marks, stamps, or brands, any cooper or other person, shall presume to shift the contents of such cask, or other vessel, and to put therein any flax-seed, pot-ash, or pearl-ash, that has not been duly surveyed or assayed, and approved as aforesaid, such cooper, or other person, offending therein, shall forfeit and pay the sum of ten pounds, for every cask so shifted; to be recovered in manner aforesaid.

Penalty for shifting the contents of casks, after they have been approved and marked.

And be it further enacted, That in case any surveyor, or assay-master, appointed and sworn as aforesaid, shall be guilty of any neglect or fraud, in assaying or surveying

Penalty for neglect of duty, &c.

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ing any flax-seed, pot-ash or pearl-ash, contrary to the true intent and meaning of this act, or shall mark with their respective brands, stamps, or marks, any casks containing flax-seed, pot-ash, or pearl-ash, which they had not actually and thoroughly surveyed or assayed, and which may be intended for exportation out of this state, he or they shall forfeit and pay the sum of ten pounds for every such neglect, or for every cask falsely marked, to be recovered as aforesaid.

Casks to be weighed and marked.

Be it further enacted by the authority aforesaid, That each cask (before any pot-ash or pearl-ash are put therein) shall be weighed by the manufacturer of such pot-ash, or pearl-ash, who shall with a marking-iron mark on one of the heads thereof, the full weight of the cask, and the initial letters of his name; and in case he shall falsely mark the same, such manufacturer, upon conviction thereof, shall forfeit and pay the sum of forty shillings for each cask so falsely marked.

Fee for surveying.

And be it further enacted, That the respective surveyors and assay-masters, shall be paid for every cask of flax-seed, pot-ash, or pearl-ash, that they shall survey or assay, the sum of nine pence, provided the number does not exceed six casks; and six pence for each cask exceeding that number, exclusive of cooperage, to be paid by the shipper.

Passed June 21, 1786.

Preamble.

AN ACT to encourage the manufacturing of linseed oil within this state.

WHEREAS the manufacturing of oil, from flax-seed, within this state, will furnish employment for poor persons, have a happy influence on the balance of trade, and greatly contribute to the wealth of the good subjects of this state:

Therefore, to encourage the same,

Mills, &c. not subject to any tax for 10 years.

BE it enacted by the senate and house of representatives in general court convened, That if any person or persons shall, within two years, erect and set up, or if already set up, shall continue, a mill for the manufacturing of oil from flax-seed, such mill or building shall not be subject to any tax for ten years after it shall have been set up.

And be it further enacted, That it shall be lawful for all

all and every person or persons, native or foreigner, to ship, lade, enter, transport, or export, out of this state, into any part of the world, in amity with the United States, linseed oil, free from any custom or imposition whatever.

Any person may ship linseed oil free from duty.

Provided always, and it is the true intent and meaning of this act, that such mills as are already set up, shall be exempted from taxation for ten years from the passing of this act, and such as may be set up within two years, as aforesaid, shall be exempted for the term of ten years next after the time of their being set up and erected.

Provifo.

AN ACT to encourage the importation of drugs and wood used in dying cloths, artificers' tools, Spanish wool, raw silk, and other raw materials.

Passed June 23, 1786.

WHEREAS the importation of drugs, and wood commonly used in dying, raw silk, Spanish and cotton wool, and other raw materials, tools, and implements used by artificers, will greatly promote the manufactures of this state :

Preamble.

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That from and after the publication of this act, it shall and may be lawful for any person or persons, whether native or foreigner, to import, enter, or bring into this state, either by land or water, in any ship, vessel, craft, team, cart, or carriage, whether owned by subjects of this state, those of other of the United States, or foreigners, any Spanish and cotton wool, molasses, raw silk, elephant's teeth, untanned hides, unwrought copper, brass, and steel, pig-iron, goat's hair, camel's hair, fullers earth, drugs, and wood used in dying, tin plates, brass and iron wire, and all tools and implements used by artificers, free from any custom, duty, or imposition whatever ; any act or law of this state, to the contrary, notwithstanding.

Sundry articles exported to be free from duty.

Passed June
24, 1786.

Preamble.

Persons im-
porting gold
and silver not
to pay duty.

AN A C T to encourage the importation of coined gold and silver into this state.

WHEREAS the importation of gold and silver into this state, to exchange for produce or manufactures thereof, will much more promote the interest of the good subjects of the same, than the importation of foreign luxuries :

Therefore for the encouragement thereof,

BE it enacted by the senate and house of representatives in general court convened, That every vessel owned by any person or persons, being inhabitants of this state, which shall bring into the same, gold or silver; the master of which vessel shall, upon his arrival, apply to the naval-officer, and make oath, that there was imported in his said vessel, gold and silver only; said vessel shall not be liable to any duty, except light-money, either for entry or clearance; any law, custom, or usage, to the contrary, notwithstanding.

And be it further enacted, That if the master or commander of any ship or vessel owned by any of the citizens of this state, upon his arrival in any port or harbour within the same, shall make oath to the naval-officer, that he imported a sum of money, equal in value to one-half of the cargo by him imported, the one-half of the duties or imposition upon the residue of his cargo only, shall be received, or demanded, by the naval-officer, and so in proportion for a greater or lesser sum.

Passed Janu-
ary 12, 1787.

Preamble.

Casks to be
gauged by
Gunter scale.

AN A C T for regulating the gauging of casks.

WHEREAS the regulation of the gauging of casks, is highly necessary to prevent fraud and injustice :

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That from and after the first day of March next, all casks in which rum, wine, or other spirituous liquors, or molasses, shall be exposed to sale by the gallon, shall be mathematically gauged by Gunter's scale, and the quantity said casks contain, together with the ullage thereof, set and marked on one head by the gauger, with a marking iron, for which he may demand and receive three pence, from the owner or owners thereof, for every cask by him so gauged,

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gauged, and no more. And in case any purchaser shall not be satisfied with the account so marked, he may have the same gauged again in his presence; and if upon such examination, the account aforesaid shall be found to be true, such second gauging shall be at the cost of the purchaser; but if it is found to differ, the second also shall be at the cost of the owner as aforesaid. And the selectmen of the several towns and parishes aforesaid, are hereby ordered, as there shall be occasion, or when they shall be requested by any of the inhabitants within their respective limits, to nominate and appoint a fit person or persons to the said office, who shall serve until another shall be chosen and sworn, in his or their stead, to the true and faithful discharge thereof, as every one who shall be thereto appointed, shall be by any justice of the peace, in the following words, mutatis mutandis:

You A. B. being appointed a gauger, according to law, do swear, that you will diligently attend, and faithfully discharge and execute the office and duty of a gauger, within the limits whereto you are appointed, until another shall be chosen and sworn in your place, and that in and by all the particulars mentioned in the law whereto your office hath relation, and you shall act therein impartially, without fear or favor,

Gauger's
oath.

So help you God.

And any person who shall presume to sell any rum, wine, spirituous liquors, or molasses, as aforesaid, without being gauged as this act directs, shall forfeit and pay the sum of forty shillings for each cask, the one half for the use of the poor of the town or parish where the offence is committed, and the other half to any person who will sue for the same: or said forfeiture may be recovered by presentment of the grand jury at the court of general sessions of the peace; in which case, the whole of the forfeiture, shall be for the use of the poor as aforesaid.

AN ACT in addition to an act, intituled, "An act Passed June to regulate flax-seed, pot-ash and pearl-ash, for exportation. 27, 1787.

WHEREAS by an act made and passed by the general court of New-Hampshire, intituled, "An act to regulate flax-
Preamble.

flax-seed, pot-ash and pearl-ash, for exportation, the president and council are empowered to appoint within such sea-port towns within this state, as there shall be occasion, one or more skilful person or persons, to be assay-masters, for the proving and assaying pot-ash and pearl-ash, whose qualifications and duty are therein set forth; but no provision is therein made, for appointing any such assay-masters in any other towns, except sea-port towns as aforesaid, and it appearing to be of public utility, that such should be appointed in other towns:

Therefore,

Enacting
clause,

BE it enacted by the senate and house of representatives in general court convened, That the president and council be, and they hereby are empowered to appoint in any town, or towns within this state, as occasion shall require, one or more skilful person or persons to be assay-masters, whose duty and qualifications shall be the same, as are by the aforesaid act required.

Passed Sep.
27, 1787.

Preamble.

AN ACT in addition to, and for the amendment of an act, intituled, "An act to regulate flax-seed, pot-ash and pearl-ash for exportation."

WHEREAS in and by said act, it is enacted, that the casks which contain flax-seed for exportation, shall contain seven bushels and one peck, or three bushels and half and half peck, which dimensions of casks not being beneficial to the trade of this state:

Therefore,

Enacting
clause.

BE it enacted by the senate and house of representatives in general court convened, That the casks containing seven bushels, or three bushels and half of good flax-seed, may be exported out of this state, any thing in the before-mentioned act notwithstanding: and the surveyor or assay-masters of flax-seed, that are or may be appointed, may proceed in the same manner, as they are directed in the before-mentioned act.

Passed Sep.
22, 1787.

AN ACT to encourage the erecting of mills for flitting, rolling and plating iron, and to encourage and promote the manufacturing of nails within this state.

WHEREAS

WHEREAS the slitting, rolling and plating of iron, and making nails within this state, would prevent large sums of money being drawn out of the same to foreign countries :

Preamble.

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That mills, forges, and engines for slitting, rolling and plating iron, with the necessary buildings appertaining to them, and nail-houses or shops erected and properly calculated for the business of making nails, which shall be set up, erected and completed for the business for which they, or either of them, may be designed, in any part of this state, within three years from the passing this act, such mills, buildings, forges, and engines, and every of them, shall be exempted from all taxes, duties and impositions whatever, for the term of ten years from the time of their being set up and completed as aforesaid.

Slitting mills
&c. exempted from taxes

Provided always, That the benefit of this act, shall not be extended to any or either of them, for longer time than the same shall, in the judgment of the selectmen of the town, parish, or place, where the same is situate, be usually and properly occupied and improved in the business for which it was erected, constructed, and set up.

And be it further enacted, That the owner or owners of any slitting-mill, or forge for rolling or plating iron (set up and erected within three years as aforesaid) shall have an abatement annually, for the term of seven years, in his, her, or their taxes, for as many poll taxes as he or they shall usually and usefully employ of proper workmen, to the satisfaction of said selectmen, in slitting, rolling, or plating iron.

Owners of
slitting mills,
&c. to have
an abatement
of taxes.

And be it further enacted, That if any person or persons, shall within one year from the passing this act, erect and finish any mill for slitting, rolling and plating iron, which shall be in the judgment of two of the justices of the superior court, properly constructed for the business for which it was erected, and shall be so certified by said justices, and that it is the first of the kind in their judgment completed in this state, the person or persons so constructing such mill within one year, being the first of that kind erected, set up and finished in this state, and producing such certificate thereof to

A premium
of £100 for
the first slit-
ting-mill e-
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the president and council, the president with advice of council, is hereby empowered to give an order upon the treasurer of this state, for one hundred pounds, to be paid to such person or persons so first constructing and finishing such mill within the time aforesaid. And the same, together with the privileges on which it may be constructed, shall be exempted from all and every kind of duty, tax or imposition, so long as the same shall be occupied and improved in the business aforesaid.

And to promote the business of nail-making ;

The limits of
prison-yards
to be enlarg-
ed.

Be it further enacted, That the justices of the courts of general sessions of the peace, in the several counties in this state, are hereby directed, as soon as may be, after the passing of this act, to enlarge the limits of the prison-yards in their respective counties, if necessary, not exceeding one hundred yards, and at the expence of their respective counties, to cause proper nail-houses to be erected therein, with at least two forges in each nail-house, and furnish the tools and implements necessary for the making of nails ; and to provide from time to time, as they may find necessary, at the expence of their respective counties, coals and nail rods, to employ prisoners in making nails.

Persons con-
vict. of crime,
to work at
nail-making.

And be it further enacted, That the justices of the superior court of judicature and justices of the courts of general sessions of the peace, and justices of the peace respectively, may in all cases where any person shall be convicted before them of any crime, where by law such persons so convicted would be liable to make restitution to the party aggrieved, pay a fine or damages, with costs of prosecution, and stand committed 'till sentence be performed, the said justices of the superior court, justices of the general sessions of the peace, or any justice before whom the trial may be, may at their discretion, either order the person so convicted to stand committed 'till sentence be performed, or to work at the business of nail-making 'till sentence be performed—saving always to the party convicted, the right of appeal as the law directs.

Persons sen-
tenced, &c.
to be allow-
ed 3s. per
day.

And be it further enacted, That when any person shall be sentenced to work at the business of nail-making, in the prison-yard as aforesaid, he shall be kept at labour until he shall have paid the fine, damages, or costs, for which he is sentenced, and the prison fees and expences

at

at the rate of three shillings per day, always allowing the making of one thousand of ten penny nails as one day's work, and so pro rata.

And be it further enacted, That the under prison-keeper, shall have the same authority over persons sentenced to work as aforesaid, as masters of houses of correction, have by law, over persons committed to their care, may use every proper method for preventing desertion by day, and shall confine them in prison by night.

Prison-keepers to have the same authority as &c.

And in case of the escape of any such person, if he shall be again apprehended, the next court of quarter sessions in that county, is hereby impowered and directed to sentence him to serve double the time he had to serve at the time of his desertion, and so *toties quoties*.

In case of an escape and again apprehend. to serve double time.

And be it further enacted, That every under prison-keeper, shall at the time of his first receiving nail rods from the county as aforesaid, be sworn to render a true and faithful account to the quarter sessions at every session, of the quantity of coals and the number and weight of rods, which he then has, or may afterward receive from the county; and the quantity of nails made therefrom, and the number made by each person, and shall at every session, render his account thereof on oath and file a copy with the clerk of said court, and shall deliver over the nails made as aforesaid agreeably to the orders which he may from time to time receive from the said court of quarter sessions.

Prison-keeper receiving nail rods to be sworn, &c.

And be it further enacted, That from and after the first day of July next, every person appointed under prison-keeper in any county in this state, shall before he enters upon the duties of his said office, be sworn to render a true and faithful account of all coals and rods, which he may receive, and nails made under his direction as aforesaid, during his continuance in office, and said prison-keeper, shall be allowed ten per cent out of all the nails made under his direction, by prisoners sentenced to nail-making as aforesaid. And shall have liberty to discharge any prisoner when he shall have made nails sufficient to satisfy the demands against him, at the rate of three shillings per thousand for ten penny nails as aforesaid, though the time for which he stood committed may not be expired, and shall hold and keep to labour every such prisoner until he shall have

Prison-keeper receiving coal and rods to be sworn.

Their allowance may discharge.

Qt. sessions
to fix the
prices of
other kind of
nails.

Prisoners for
debt may be
employed to
make nails.

have made nails sufficient to satisfy the sums which he may be sentenced to pay, unless otherways discharged.

And be it further enacted, That the respective courts of quarter sessions shall at every session fix the price of making every other kind of nails, as near as may be, to the above proportion of three shillings for one thousand of ten penny nails, and shall fix and ascertain the price of nails for the ensuing quarter. And the prison keeper may at that rate, deliver out nails to any person or persons to whom the said prisoners, or either of them, is sentenced to make restitution, by order of the court of quarter sessions in satisfaction of their demands, always taking the receipt of such person or persons upon the order aforesaid.

And be it further enacted, That when there shall not be prisoners of the foregoing description in any prison in either of the counties aforesaid, sufficient to employ the forges in the nail-house appertaining thereto, the respective under prison keepers may with the assent of any two of the justices, quorum unus, employ in the business of nail-making for such time as they may approve, prisoners confined for debt, who shall have given bond for the liberty of the yard, and shall be desirous of being so employed, allowing them one fourth part of all the nails which they may fabricate, of which said prison-keeper is to render an account on oath to the quarter sessions as aforesaid, and shall be intitled to five per cent of the residue of said nails for his trouble, and the remainder shall be kept by him for the use of the county, and delivered out by order of the court of sessions.

Passed June
17, 1788.

Preamble.

AN ACT in addition to an act, intituled, "an act for the regulation of the gauging of casks."

WHEREAS it often happens that the gauger is obliged to gauge a single cask only, for which by the said act, he can demand three pence, which is found in the said case to be inadequate for such service ;

Therefore,

BE it enacted by the senate and house of representatives in general court, convened, That whenever any gauger, shall be required to gauge one single cask only, he may demand and receive therefor the sum of six pence

pence instead of the three pence allowed by said act, and whenever any gauger shall be required to gauge more casks than one at the same time, he shall receive no more than three pence for each cask he may so gauge, as in and by said act directed.

AN ACT to encourage the erecting of proper buildings for carrying on the manufacture of sail-cloth, or duck, within this state. Passed Feb. 3, 1789.

WHEREAS the manufacture of duck within this state, would prevent large sums of money being drawn out of the same, to foreign countries : Preamble.

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That buildings proper for the manufacture of sail-cloth or duck, which shall be set up, erected and completed for the purpose aforesaid, in any part of this state, within three years from the passing of this act, shall be exempted from all taxes, duties, and impositions whatever, for the term of ten years from the time of their being set up and completed as aforesaid.

Provided always, That the benefit of this act shall not be extended to any or either of them, for a longer time, the same shall, in the judgment of the town or parish, or place where the same is situate, be usually and properly occupied and improved in the business for which it was erected, constructed, and set up.

And be it further enacted, That the owner or owners of such manufacture for making duck, (set up and erected within three years as aforesaid) shall have an abatement annually, for the term of seven years, in his, her, or their taxes, for as many poll-taxes as he, she, or they shall usually and usefully employ, of proper workmen, to the satisfaction of said selectmen, in making sail-cloth, or duck.

And be it further enacted, That if any person or persons shall, within one year from the passing this act, erect and finish any such manufacture for making duck as aforesaid, which shall be in the judgment of two of the judges of the superior court, properly constructed for the business for which it was erected, and shall be so certified

certified by said judges, and that it is the first of the kind, in their judgment, completed in this state, so far as to make duck, the person or persons so constructing the same within one year, being the first of that kind erected, set up and finished, so as to make duck in this state, and producing such certificate thereof to the president and council, the president, with advice of council is hereby impowered to give an order upon the treasurer of this state for fifty pounds to be paid to such person or persons so first constructing and finishing such manufacture as aforesaid within one year: and the same together with the privileges on which it may be constructed shall be exempted from all and every kind of duty, tax or imposition so long as the same shall be occupied and improved in the business aforesaid.

TAXES AND STATE SECURITIES.

Passed Feb.
7, 1789.

AN ACT for making and establishing a new proportion of the public taxes, among the several towns, parishes and places within this state; and to authorize the treasurer to issue his warrants for levying the same annually.

Preamble.

WHEREAS a new proportion of the public taxes is necessary.

BE it enacted by the senate and house of representatives in general court convened, That the proportion to every thousand pounds of the public taxes, which each town, parish and place within this state, shall annually pay, and for which the treasurer is hereby authorized and directed to issue his warrants, shall be as follows, viz.

<i>For the county of Rockingham.</i>		£.	s.	d.
Allenstown, one pound eight shillings,		1	8	0
Atkinson, four pounds ten shillings,		4	10	0
Bow, three pounds four shillings and six pence,		3	4	6
Brintwood, ten pounds seventeen shillings and five pence,	10	17	5	
Candia, eight pounds two shillings and four pence,		8	2	4
Canterbury, eight pounds four shillings and seven pence,		8	4	7
Chester, sixteen pounds two shillings and ten pence,	16	2	10	
Chichester, three pounds four shillings and nine pence,		3	4	9
Concord, twelve pounds seven shillings and eleven pence,	12	7	11	
Deerfield,				

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Epsum, fi
Exeter, fi
Greenland
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Hampton,
Hawke, fi
Hampton-
Kenningto
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Newington
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Northfield
North-Ha
Northwoo
Nottingha
Pelham, fi
Pembroke
Plastow, fi
Poplin, fi
Portsmouth
Pittsfield,
Raymond
Rye, six p
Salem, ni
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Stratham,
Windham

Barnstead
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New-Dur

	£.	s.	d.
Deerfield, twelve pounds six shillings and two pence,	12	6	2
East-Kingston, four pounds two shillings and three pence,	4	2	3
Epping, thirteen pounds three shillings and eleven pence,	13	3	11
Epston, five pounds twelve shillings and eight pence,	5	12	8
Exeter, fifteen pounds ten shillings and two pence,	15	10	2
Greenland, six pounds six shillings,	6	6	0
Hampstead, five pounds nineteen shillings,	5	19	0
Hampton, eight pounds nineteen shillings and seven pence,	8	19	7
Hawke, four pounds seven shillings and three pence,	4	7	3
Hampton-Falls, five pounds nineteen shillings and five pence,	5	19	5
Kennington, eight pounds sixteen shillings and nine pence,	8	16	9
Kingston, eight pounds eleven shillings and one penny,	8	11	1
Londonderry, twenty pounds fifteen shillings & three pence,	20	15	3
Loudon, six pounds fourteen shillings and eight pence,	6	14	8
Newington, four pounds seventeen shillings and nine pence,	4	17	9
Newmarket, nine pounds sixteen shillings,	9	16	0
New-Castle, one pound five shillings and nine pence,	1	5	9
Newtown, three pounds sixteen shillings and nine pence,	3	16	9
Northfield, three pounds eighteen shillings and one penny,	3	18	1
North-Hampton, six pounds two shillings and eleven pence,	6	2	11
Northwood, five pounds nineteen shillings and three,	5	19	3
Nottingham, eight pounds thirteen shillings and six pence,	8	13	6
Pelham, seven pounds four shillings and six pence,	7	4	6
Pembroke, seven pounds ten shillings and eleven pence,	7	10	11
Plastow, four pounds five shillings and five pence,	4	5	5
Poplin, five pounds eight shillings and two pence,	5	8	2
Portsmouth, twenty-six pounds fifteen shillings & three pence,	26	15	3
Pittsfield, five pounds seven shillings and ten pence,	5	7	10
Raymond, six pounds four shillings and eight pence,	6	4	8
Rye, six pounds eight shillings and nine pence,	6	8	9
Salem, nine pounds two shillings and one penny,	9	2	1
Sandown, five pounds five shillings and five pence,	5	5	5
Seabrook, four pounds nine shillings and four pence,	4	9	4
South-Hampton, five pounds twelve shillings and six pence,	5	12	6
Stratham, nine pounds eleven shillings,	9	11	0
Windham, five pounds eight shillings and eight pence,	5	8	8

For the county of Strafford.

Barstead, four pounds eighteen shillings and six pence,	4	18	6
Barrington, fourteen pounds six shillings and eight pence,	14	6	8
Conway, three pounds seven shillings and three pence,	3	7	3
Dover, fourteen pounds thirteen shillings and two pence,	14	13	2
Durham, ten pounds sixteen shillings and two pence,	10	16	2
Eaton, one pound sixteen shillings and two pence,	1	16	2
Effingham, one pound twelve shillings and five pence,	1	12	5
Gilmantown, fifteen pounds four shillings and five pence,	15	4	5
Lee, eight pounds two shillings and one penny,	8	2	1
Locations, Samuel Stark, three pence,	0	0	3
Archibald Stark, two shillings and five pence,	0	2	5
Hugh Sterling, two shillings,	0	2	0
Madbury, five pounds eight shillings and nine pence,	5	8	9
Meredith, six pounds and seven pence,	6	0	7
Middleton, three pounds eight shillings and six pence,	3	8	6
Moultonborough, four pounds ten shillings and ten pence,	4	10	10
New-Durham, three pounds eighteen shillings & nine pence,	3	18	9
New-Durham Gore, three pounds one shilling and two pence,	3	1	2

New-

	£.	s.	d.
New-Hampton, three pounds ten shillings and ten pence,	3	10	10
Offispee, one pound twelve shillings and six pence,	1	12	6
Rochester, nineteen pounds eleven shillings,	19	11	0
Sanborntown, eleven pounds fourteen shillings & three pence,	11	14	3
Sandwich, seven pounds thirteen shillings and eleven pence,	7	13	11
Somersworth, eight pounds fourteen shillings and ten pence,	8	14	10
Tamworth, two pounds three shillings and two pence,	2	3	2
Tuostonborough, eighteen shillings and seven pence,	0	18	7
Wakefield, four pounds sixteen shillings and two pence,	4	16	2
Wolfborough, three pounds fourteen shillings & three pence,	3	14	3
For the county of Hillsborough.			
Amherst, sixteen pounds four shillings and four pence,	16	4	4
Andover, three pounds fifteen shillings and seven pence,	3	15	7
Antrim, three pounds six shillings and eight pence,	3	6	8
Bedford, six pounds fifteen shillings and nine pence,	6	15	9
Boscawen, seven pounds eleven shillings and four pence,	7	11	4
Bradford, one pound eight shillings and six pence,	1	8	6
Campbells-Gore twelve shillings and ten pence,	0	12	10
Dearing, four pounds thirteen shillings and four pence,	4	13	4
Derryfield, two pounds ten shillings and four pence,	2	10	4
Dunbarton, five pounds seventeen shillings and five pence,	5	17	5
Dunstable, five pounds three shillings and two pence,	5	3	2
Dunbury, one pound three shillings and six pence,	1	3	6
Fishersfield, two pounds and one penny,	2	0	1
Francestown, five pounds two shillings,	5	2	0
Goffstown, seven pounds seventeen shillings and seven pence,	7	17	7
Hancock, two pounds eleven shillings and six pence,	2	11	6
Henniker, six pounds eight shillings and three pence,	6	8	3
Hillsborough, four pounds nine shillings and four pence	4	9	4
Holles, nine pounds and two pence,	9	0	2
Hopkinton, twelve pounds nineteen shillings and two pence,	12	19	2
Keasearge Gore, ten shillings and six pence,	0	10	6
Litchfield, three pounds and four pence,	3	0	4
Lyndeborough, eight pounds eleven shillings and two pence,	8	11	2
Mafon, six pounds two shillings and eight pence,	6	2	8
Merrimack, five pounds twelve shillings and five pence,	5	12	5
New-Boston, seven pounds five shillings and nine pence,	7	5	9
New-Ipswich, nine pounds fourteen shillings & seven pence,	9	14	7
New-London, two pounds eleven shillings and six pence,	2	11	6
Nottingham-West, seven pounds ten shillings & three pence,	7	10	3
Peterborough, seven pounds seven shillings,	7	7	0
Peterborough-Slip, one pound eighteen shillings & ten pence,	1	18	10
Raby, one pound nineteen shillings and four pence,	1	19	4
Salisbury, ten pounds four shillings and nine pence,	10	4	9
Society Land, one pound four shillings and ten pence,	1	4	10
Sutton, two pounds ten shillings and ten pence,	2	10	10
Temple, four pounds eighteen shillings and seven pence,	4	18	7
Warner, four pounds eighteen shillings and seven pence,	4	18	7
Weare, twelve pounds seventeen shillings and seven pence,	12	17	7
Wilton, seven pounds nineteen shillings and nine pence,	7	19	9
Land between Peterborough and Lyndeborough,	} five shillings & nine pence, 0 5 9		

For the county of Cheshire.

Acworth, three pounds fifteen shillings and ten pence,	3	15	10
Alstead, six pounds eighteen shillings and five pence,	6	18	5

Charlestown,

Charlestown
 Chester
 Claremont
 Cornish
 Croydon
 Dublin
 Fitzwilliam
 Gillingham
 Hindford
 Jaffrey
 Keene
 Langdon
 Lempster
 Marlborough
 Marlow
 New Grange
 Newport
 Packersfield
 Plainfield
 Protection
 Richmond
 Rindge
 Stoddard
 Surry
 Sullivan
 Swanzy
 Unity
 Walpole
 Walsingham
 Wendell
 Westmoreland
 Winchester
 Alexander
 Bath
 Bridgewater
 Cambridge
 Campton
 Canaan
 Cardigan
 Chatham
 Cockburn
 Cockermouth
 Colburn
 Coventry
 Dalton
 Dartmouth
 Dorchester
 Dummer
 Enfield
 Errol
 Franconia
 Grafton
 Gunthorpe
 Hanover

<i>£. s. d.</i>		<i>£. s. d.</i>
3 10 10	Charlestown, eight pounds eleven shillings & eight pence,	8 11 8
1 12 6	Chesterfield, eleven pounds sixteen shillings & seven pence,	11 16 7
19 11 0	Claremont, nine pounds and three pence,	9 0 3
11 14 3	Cornish, five pounds seventeen shillings,	5 17 0
7 13 11	Croydon, two pounds eighteen shillings and seven pence,	2 18 7
8 14 10	Dublin, five pounds eight shillings and six pence,	5 8 6
2 3 1	Fitzwilliam, five pounds seventeen shillings and ten pence,	5 17 10
0 18 7	Gilfom, one pound fifteen shillings and seven pence,	1 15 7
4 16 2	Hindisdale, three pounds one shilling and nine pence,	3 1 9
3 14 3	Jaffrey, seven pounds twelve shillings and five pence,	7 12 5
	Keene, nine pounds nineteen shillings and six pence	9 19 6
16 4 4	Langdon, one pound eleven shillings,	1 11 0
3 15 7	Lempster, three pounds one shilling and ten pence,	3 1 10
3 6 8	Marlborough, four pounds seventeen shillings & two pence,	4 17 2
6 15 9	Marlow, one pound eighteen shillings,	1 18 0
7 11 4	New Grantham, one pound sixteen shillings and ten pence,	1 16 10
1 8 6	Newport, four pounds eight shillings and one penny,	4 8 1
0 12 10	Packersfield, four pounds and three pence,	4 0 3
4 13 4	Plainfield, five pounds seventeen shillings,	5 17 0
2 10 4	Protectworth, one pound thirteen shillings and ten pence,	1 13 10
5 17 5	Richmond, eight pounds seven shillings and four pence,	8 7 4
5 3 2	Rindge, seven pounds fourteen shillings and seven pence,	7 14 7
1 3 6	Stoddard, three pounds eight shillings and one penny,	3 8 1
2 0 1	Surry, three pounds twelve shillings,	3 12 0
5 2 0	Sullivan, one pound ten shillings and three pence,	1 10 3
7 17 7	Swanzy, eight pounds thirteen shillings and ten pence,	8 13 10
2 11 6	Unity, two pounds eighteen shillings and ten pence,	2 18 10
6 8 3	Walpole, nine pounds four shillings and eleven pence,	9 4 11
4 9 4	Washington, three pounds three shillings,	3 3 0
0 0 2	Wendell, one pound nine shillings and eight pence,	1 9 8
2 19 2	Westmorland, ten pounds four shillings and eleven pence,	10 4 11
0 10 6	Winchester, nine pounds eight shillings and four pence,	9 8 4

For the county of Grafton.

11 2	Alexandria, two pounds one shilling and three pence,	2 1 3
2 8	Bath, two pounds eleven shillings and eleven pence,	2 11 11
12 5	Bridgewater, one pound seventeen shillings and two pence,	1 17 2
5 9	Cambridge, ten shillings and three pence,	0 10 3
14 7	Campton, three pounds six shillings and ten pence,	3 6 10
11 6	Canaan, two pounds six shillings and two pence,	2 6 2
10 3	Cardigan, eighteen shillings,	0 18 0
7 0	Chatham, eight shillings and one penny,	0 8 1
18 10	Cockburn, ten shillings and three pence,	0 10 3
19 4	Cockermouth, two pounds eleven shillings and six pence,	2 11 6
4 9	Colburne, ten shillings and three pence,	0 10 3
4 10	Coventry, fifteen shillings and six pence,	0 15 6
10 10	Dalton, ten shillings and three pence,	0 10 3
18 7	Dartmouth, ten shillings and three pence,	0 10 3
18 7	Dorchester, one pound two shillings and five pence,	1 2 5
17 7	Dummer, ten shillings and three pence,	0 10 3
19 9	Enfield, four pounds eight shillings,	4 8 0
5 9	Errol, ten shillings and three pence,	0 10 3
	Franconia, twelve shillings and ten pence,	0 12 10
	Grafton, two pounds,	2 0 0
5 10	Gunthwaite, alias Concord, two pounds and three pence,	2 0 3
8 5	Hanover, six pounds one shilling and three pence,	6 1 3
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Haverhill,

	£.	s.	d.
Haverhill, four pounds ten shillings and four pence,	4	10	4
Kilkenny, ten shillings and three pence,	0	10	3
Lancaster, eighteen shillings and one penny,	0	18	1
Landaff, one pound twelve shillings and four pence,	1	12	4
Lebanon, six pounds and four pence,	6	0	4
Lincoln, ten shillings and three pence,	0	10	3
Littleton, one pound and seven pence,	1	0	7
Location, Thomas Chadbourn, three pence,	0	0	3
J. Goffe, three pence,	0	0	3
M. H. Wentworth, three pence,	0	0	3
S. Sherburne, three pence,	0	0	3
T. Dame, three pence,	0	0	3
J. Hurd, three pence,	0	0	3
V. Royce, five shillings and six pence,	0	5	6
Lyman, one pound five shillings and nine pence,	1	5	9
Lyme, three pounds seventeen shillings and nine pence,	3	17	9
Millfield,			
New Chester, two pounds and eight pence,	2	0	8
New Holderness, two pounds thirteen shillings & ten pence,	2	13	10
Northumberland, ten shillings and three pence,	0	10	3
Orford, three pounds five shillings and six pence,	3	5	6
Peeling, Fairfield, ten shillings and three pence,	0	10	3
Percy, ten shillings and three pence,	0	10	3
Piermont, two pounds sixteen shillings and six pence,	2	16	6
Plymouth, five pounds six shillings,	5	6	0
Rumney, two pounds sixteen shillings,	2	16	0
Shelburne, ten shillings and three pence,	0	10	3
Stratford, ten shillings and three pence,	0	10	3
Success, ten shillings and three pence,	0	10	3
Thornton, two pounds eight shillings and ten pence,	2	8	10
Trecothick, ten shillings and three pence,	0	10	3
Warren, one pound eight shillings and five pence,	1	8	5
Wentworth, one pound eight shillings and five pence,	1	8	5
Burton, thirteen shillings and six pence,	0	13	6

Locations.

William Stark, eight shillings and three pence,	0	8	3
Philip Baley, two shillings and eight pence,	0	2	8
Major Hale, nine pence,	0	0	9
Robert Furniss, one penny,	0	0	1
Samuel Gilman, three pence,	0	0	3
Charles Rogers, two pence.	0	0	2
—Gridly, two pence,	0	0	2
—Gray, four pence,	0	0	4
David Gilman, ten pence,	0	0	10
Andrew M'Millan, one shilling and two pence,	0	1	2

And be it further enacted by the authority aforesaid,
That the said proportion shall be for all public taxes,
until a new proportion shall be made and established :
and that the treasurer for the time being, issue his war-
rants accordingly,

And whereas sundry of the aforementioned places are not
incorporated, and have no legal authority to assess and col-
lect the sums to be raised ;

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Be it therefore enacted, That Ebenezer Smith and David Page, Esq's. or either of them for the county of Strafford; John Duncan and Robert M'Gregore, Esq's. or either of them for the county of Hillsborough; Moses Chase and Elijah Frink, Esq's. or either of them for the county of Cheshire; Moses Dow and Jeremiah Eames, Esq's. or either of them for the county of Grafton, are hereby severally appointed and authorized to call meetings of the inhabitants of all such places in their respective counties, which are not incorporated, giving public notice thereof, by causing a notification, setting forth the time, place and occasion of such meeting, to be posted up publicly in said place fourteen days at least before the time of holding such meeting, to choose selectmen and all such officers as are necessary for assessing and collecting public taxes; which meetings shall be holden in said places respectively by the first day of July next, and the officers chosen at said meetings, shall be invested with all the authority for the purpose aforesaid, as such officers in towns incorporated within this state, are by law invested with; and the selectmen chosen at said meetings shall call the meeting of the inhabitants of their respective places, to be held within the same, on the last Monday in March, to choose all officers necessary for the purpose aforesaid, for the next year and so on annually, until a new proportion of the public taxes shall be made and established.

And the officers so chosen shall be under oath for the faithful discharge of the duty of their respective offices, and shall have the same power and authority in the same as the like officers in towns incorporated in said state, are by law invested with, and shall be liable to the same penalties for neglect of their duty as the like officers in said incorporated towns, are by law liable to.

And the inhabitants of such places shall be indulged with one month longer, before they pay their state tax, than those places which are incorporated.

And whereas the inventories of several towns and places mentioned in this act, owing to their being but thinly inhabited or not inhabited at all, do not amount to thirty pounds, and it is reasonable that a different mode of collecting the taxes on such towns and places should be prescribed:

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Be it therefore enacted by the authority aforesaid, That the treasurer of this state for the time being, shall at the time of issuing his warrants annually for the taxes of said towns and places, give public notice in the New-Hampshire Gazette and in some one of the Boston newspapers of the sum apportioned to, and to be paid by the owners collectively, of the lands in said towns and places, requiring that the same be paid into the treasury, by the same time that the other towns are to pay their said taxes; and that if the same is not paid accordingly, so much of their lands will be sold as will pay said tax with incidental charges. And if said taxes are not paid by the time prescribed, the treasurer shall make sale of so much of said land at public vendue as will pay said tax with incidental charges; first advertising the time and place of sale in the newspapers aforesaid three weeks successively.

Passed Feb.
7, 1789.

AN ACT to establish an equitable method of making rates and taxes, and determining who shall be legal voters in town and parish affairs, and for repealing certain acts herein after mentioned.

Preamble.

WHEREAS it is necessary that there should be an equitable rule established by law for making rates and taxes within this state, so that every person may be compelled to pay in proportion to his or her estate; and also for ascertaining who shall be legal voters in town and parish meetings:

BE it therefore enacted by the senate and house of representatives in general court convened, That henceforward all public taxes shall be made and assessed in proportion to the amount of each persons poll and rateable estate, which shall be as follows, viz. all male polls from eighteen to seventy years of age shall be estimated at ten shillings each; horses and oxen which have been wintered five winters, three shillings each; cows which have been wintered five winters, two shillings each; cattle and horses which have been wintered four winters, one shilling and six pence each; cattle and horses which have been wintered three winters, one shilling each; cattle and horses which have been wintered two winters, six pence each. All improved

Improved lands to be estimated as follows, viz. orchard one shilling and six pence per acre, accounting so much for an acre as will produce ten barrels of cyder or perry, one year with another; arable land one shilling per acre, accounting so much land as will generally produce twenty-five bushels of indian corn or other grain equivalent per year, to be one acre; mowing land one shilling per acre, accounting so much land for one acre as will produce one year with another one ton of English hay, or other hay equivalent; pasture land at five pence per acre, accounting so much land as will summer a cow, to be four acres. All mills, wharves and ferries shall be estimated at one twelfth part of their net yearly income; and all other buildings and the unimproved lands owned by the inhabitants, and the non-residents, to be taxed at the rate of half of one per cent, according to the real value thereof. All stock whether it be the property of a tanner, currier, blacksmith, or other tradesman employed in the business of their trade according to the value thereof; or money in hand, or at interest, more than the owner gives interest for (except what is due on public securities) and all money improved in trade shall be estimated at the rate of three quarters of one per cent, and no state, town or parish tax shall be held legal but such as shall be made according to the foregoing proportion.

And if any person conceives him or herself aggrieved by any assessment made by any selectmen or assessors except in the case herein after mentioned, he or she shall have liberty to apply to the court of general sessions of the peace for abatement, if denied of redress by the selectmen. Provided nevertheless, that this act shall not effect any parish taxes where particular laws authorize a different mode for taxing them, nor shall it extend to, or affect any proprietary taxes.

And the selectmen of each town or parish in this state, in the month of April annually, shall take an invoice of each persons poll and estate in manner aforementioned: and in case any person shall remove to any other town or parish after the invoice is taken, he shall pay his tax that year where his invoice was first taken.

And if any person or persons not belonging to this state, shall come to reside or inhabit in any town or parish within the same, for the benefit of trading, although

though for a less time than one year, such person or persons shall and may be assessed one years rate for his or their polls, and such stock as he or they may bring or have in trade at the time of making his or their rates, whether on their own account or on commissions.

Every male inhabitant twenty-one years old, and upward, paying taxes, shall be deemed a legal voter in all affairs of the town or parish where he dwells. And if any person or persons in any of the towns or parishes in this state, shall refuse to render an account on oath, if required, which oath any selectman may administer, of his or their rateable estate, the selectmen, or the major part of them, may set down to such person or persons as much as they shall judge equitable, by way of doomage, and make their rates or taxes accordingly; from which doomage, there shall be no appeal, unless such person or persons are unable to exhibit such account, and are ready to make oath that is really the case.

And be it further enacted by the authority aforesaid, That the inhabitants of Portsmouth in this state, shall exhibit to the selectmen thereof annually, at such time and place as they shall appoint, within the term aforesaid, each one a just and true account of his poll and rateable estate according to this act: and the several parishes in said town of Portsmouth, shall have liberty at their parish meetings to raise their ministerial and parochial taxes, in any manner they shall judge proper.

And the selectmen and church-wardens of the several towns and parishes within this state, shall have liberty to make abatement of any person's rate, as shall or may appear to them to be equitable and just.

And be it further enacted, That the selectmen of the several towns and parishes in this state, shall take the invoice of polls and rateable estate according to what the said inhabitants shall have or be possessed of, on the first day of April, annually.

And be it further enacted by the authority aforesaid, That it shall and may be lawful for the selectmen or assessors of their several towns, parishes or places within this state, to assess all buildings and unincorporated lands, owned by non-residents in their respective towns and places, their just proportion of the state and county taxes, estimating them as is before directed.

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And whereas the mode of collecting taxes so assessed on the lands of non-residents, should be made as plain and as little expensive as possible :

Be it therefore enacted by the authority aforesaid, That in all towns and places, where the owners of such lands are not resident therein, and are known, they shall be assessed for the taxes aforesaid, in proportion to their interest, and in case the owners of such lands are unknown, then the same lands shall be assessed in the name of the original proprietor or owner thereof ; and each lot where lands are divided into lots, shall be set down in the list of taxes, and the said assessments being made as aforesaid, and the same being delivered to the constable or collector, of the town or place wherein the said lands lie, the said constable or collector shall forthwith forward to the person appointed by the state, to receive the same, a copy attested by the selectmen or assessors of the list of taxes laid on the unimproved lands and buildings of non-residents, within his town or place, to wit, the owners name if known, and if unknown, the name of the original proprietor or owner, together with the number of each lot quantity of land, and the several sums at which the said lots, and parcels of land, shall be assessed, to wit, the state and county taxes in separate columns, and the said person whose duty it is, or shall be to receive the same, shall immediately advertise three weeks successively, in the New-Hampshire Gazette, and also one of the Boston newspapers, thereby informing all persons concerned, that he has received said list, and requiring all such owners or proprietors, to pay their taxes to him, or to the constable or collector of the town or place wherein the lands lie, within eight weeks notifying also that in default thereof, so much of the lands of each delinquent proprietor or owner, will, at the end of said eight weeks, be advertised for sale, as will pay said taxes and all legal charges, and the said person so advertising is hereby authorized to receive the same, and the sum of five per cent for his trouble for all sums by him so collected, and at the end of said eight weeks, he shall as soon as may be, return a copy of said list to the constable or collector from whom he received it, retaining in his hands the copies so attested by the selectmen or assessors, specifying in said copy to be returned
who

who have paid their taxes, and who are delinquent, and at the same time forward to the said constable or collector, the money he hath collected, belonging to said town or place, for the county taxes, and the residue thereof, pay to the treasurer of this state, for the use thereof, taking the said treasurer's receipt therefor, in behalf of said town or place, after which the said constable or collector shall advertise so much of the delinquent proprietors or owners land for sale as will pay said taxes, with necessary incidental charges, giving at least three weeks notice of the time and place of such sale, by publishing the same in the New-Hampshire Gazette, and also by posting up a like advertisement for the term aforesaid, in some public place in the town or place wherein the lands advertised for sale lie, and in the two adjacent towns.

And in case the said delinquent proprietor or owner shall neglect to pay the aforementioned taxes laid on his, her or their land, with the necessary incidental charges to the said constable or collector before the sale, then the said constable or collector shall on the day appointed, proceed to make sale at public auction of so much of the delinquents land as will pay said taxes with the necessary incidental charges, provided the sale be made between the hours of ten of the clock in the forenoon and six of the clock in the afternoon. And in case all the sales cannot be completed within the hours mentioned on said day, the said constable or collector may adjourn the sale (publicly proclaiming the same) from day to day not exceeding three days.

And the said constable or collector is hereby authorized to execute a valid conveyance of the land so sold to the purchaser.

Provided nevertheless, and be it further enacted, That each non-resident aforesaid, his heirs or assigns shall have the liberty of redeeming any of his land or buildings sold as aforesaid at any time within the term of one year from the sale thereof as aforesaid, paying or tendering to the purchaser a sum amounting to the real value for which the lands or buildings were sold, with the interest therefor until the time of payment or tender, as aforesaid, together with cost of the deed or deeds and recording, if any such be given and recorded.

The

The mode for redeeming such lands and buildings shall be the same as the law prescribes for the redemption of lands mortgaged.

And whereas it often happens that more than one person is interested in a right or proprietors share of land or some one lot, part of such share held in common and undivided, and one or more being owner or owners in such land shall pay his her or their proportion of taxes according to their interest, and some other owner or owners in the same land being delinquent in paying their proportion of such taxes shall occasion some part of such lands to be sold for the unpaid taxes :

Therefore be it enacted, That the lands sold in such cases shall be only the undivided right of the delinquent owner or owners.

And be it further enacted, That an act to establish an equitable method of making rates and taxes, and determining who shall be legal voters in town and parish affairs, and also for repealing certain acts therein mentioned, be, and the same with all the acts mentioned therein hereby are repealed.

Provided nevertheless, That all proceedings pursuant to said acts already had, shall be valid as though the same had not been repealed.

And be it further enacted, That the form of the constable or collectors deed shall be as follows, viz.

KNOW all men by these presents, that I in the county of in the state of New-Hampshire, collector of taxes of and for the in said county, for the year by virtue of sundry acts and laws of said state, relating to levying and collecting taxes of non-resident proprietors of land in the several towns and parishes in said state, for and in consideration of to me in hand, paid before the delivery hereof by have given, granted and sold, and by these presents do give, grant, sell, and convey unto him the said his heirs and assigns forever, he the said being the highest bidder for the same at public vendue, duly notified and held at at the dwelling-house of aforesaid, for the sale of lands in said belonging to such non-resident proprietors or owners as are delinquent in paying the said taxes assessed thereon.—To have and to hold the said granted premises, with the appurtenances thereof to him the said his heirs and

and assigns, in fee-simple forever. And I the collector as aforesaid, do in my capacity, agree to and with the said his heirs and assigns, to warrant and defend the said premises to him the said his heirs and assigns, against the lawful claims and demands of any person or persons whomsoever: saving and reserving only to the owner or proprietor their heirs or assigns the right of redemption according to law, any thing in this deed to the contrary notwithstanding.

In witness whereof, I do hereunto set my hand and seal,
the day of Anno Domini 17

Signed, sealed and delivered
in presence of

Passed June
27, 1786.

AN ACT for appropriating certain monies, arising by acts of this state.

WHEREAS there is no appropriation of certain sums granted by acts of this state, for payment of the continental debt, and for supporting the civil government of this state :

Therefore,

BE it enacted, That all monies arising by any acts or laws of this state, for duties on imports and exports and for levying duties on tonnage, poundage, and for raising powder and light money, be paid by the respective officers collecting the same, into the treasury of this state ; and that all monies paid into the treasury, by virtue of an act passed the twenty-eighth day of February, one thousand seven hundred and eighty-six, intituled, "An act for supplying the treasury of this state, with ten thousand five hundred pounds, for the purpose of discharging the specie part of a requisition of congress of the twenty-seventh of September last, said to be this state's quota of the interest of the foreign debt of the united states," be paid by the treasurer to the continental loan-officer within this state, from time to time, as the same may be collected, the said treasurer taking a receipt or receipts for the same.

AN

AN ACT to authorize the treasurer of this state, and the treasurers of the several counties within this state to issue their executions for levying state and county taxes respectively, against individuals in certain towns and places in this state. Passed April 6, 1781.

WHEREAS some towns and places in this state liable by law to pay public taxes, have through meanness or avarice refused and neglected, and may hereafter refuse and neglect to choose proper officers for assessing and levying taxes as by law they are impowered to do, in expectation of thereby eluding the payment of their proportion of the public taxes : Preamble.

BE it therefore enacted by the council and house of representatives in general assembly convened, and by the authority of the same, That where any town or place within this state by law liable to pay public taxes, have refused or neglected, or hereafter shall refuse or neglect to choose proper officers for assessing and levying taxes according to law, and the proportion of such town or place of the county or state taxes shall remain unpaid twenty days after the time appointed by the state and county treasurers warrants respectively for the payment thereof, the goods and estates of each individual of such town and place shall be liable and are hereby subjected to be taken in execution for the payment of the proportion of such town or place of the annual county and state tax. And the treasurer of this state, and the treasurers of the several counties respectively, are hereby authorized and required to issue executions or warrants of distress against any two or more inhabitants of such town or place as they shall judge proper, and against whom they shall think fit, directed to the sheriff of the county wherein such town or place is situated, requiring him or either of them to levy by distress and sale of the goods or estates of the persons in such executions or warrants named, the respective sums at which such town or place is or shall be proportioned to the state or county taxes, and the sheriffs of the several counties in this state, and their deputies in their several precincts are hereby authorized and required forthwith to levy the same accordingly. Towns refusing or neglecting to choose proper officers, &c.

Treasurers impowered to issue executions.

And be it further enacted by the authority aforesaid, That the persons from whom such sums shall be levied as aforesaid, shall have contribution against the other inhabitants

inhabitants of such town or place where they belong for such sums and all costs, charges and damages they may have been put to by such distraint, and shall recover double costs of suit.

Passed Sept.
27, 1787.

AN ACT in addition to, and in explanation of an act, intituled an act, relating to constables collecting rates and assessments.

Preamble.

WHEREAS in and by the before named act, it is directed, that where the sheriff or his deputy, shall by legal warrant, distrain and levy on the lands or tenements of any constable for his default in not collecting, or not paying monies agreeably to his warrant, that in such case, the sheriff or his deputy, should cause a due appraisement to be made of such estate, and that afterwards the same should be sold to discharge such warrant, which direction having been found inconvenient :

Therefore,

Sheriff to sell
estates at
vendue.

BE it enacted by the senate and house of representatives in general court convened, That when any sheriff or his deputy, shall by legal warrant distrain or levy the same on any real estate of any delinquent constable or collector, that he shall proceed and sell so much of said estate at public vendue, as shall be sufficient to satisfy his said precept or warrant with all legal costs, giving thirty days notice of time and place of sale, by advertising the same at some public place in the town or parish where the said estate lies, and in two other towns adjoining, without having any appraisement made of such estate, the aforesaid act notwithstanding.

Sheriff to
specify in
what the tax-
es may be
paid.

And be it further enacted, That in said advertisements for the sale of such estate, the said sheriff shall particularly specify in what the taxes for which said estate is to be sold may be paid ; and shall sell said estate for the particular kinds of paper securities or specie, which are required to answer the taxes aforesaid.

Sheriff to re-
ceive pound-
age in the
same kinds
of securities.

And be it further enacted, That the sheriff or his deputy, shall receive the poundage in future, for levying and collecting all extents in the same kinds of paper securities or specie as said extent or extents issued for, any law, usage or custom to the contrary notwithstanding.

AN ACT describing the tenor of notes and certificates to be issued by the treasurer of this state, and appointing a committee to countersign said notes. Passed June 18, 1788.

WHEREAS the general court by a resolve passed the thirteenth day of February, Anno domini, one thousand seven hundred and eighty-eight, directed the treasurer of said state to issue certificates for the interest of fifteen per centum on the principal of the public securities of this state (if requested) and impowered him to issue new notes for the balances due, and issue certificates for all notes not exceeding three pounds, after deducting the said fifteen per cent. And whereas in and by said resolve, there is no tenor prescribed for issuing said notes and certificates, nor was there any committee appointed to countersign the same :

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That the treasurer be, and he hereby is directed and impowered to issue notes and certificates agreeably to said resolve, that is to say, notes in the tenor and form prescribed in an act of the general court passed February twenty fourth, one thousand seven hundred and eighty-five, excepting as to the date of said notes, which shall be July thirty-first, one thousand seven hundred and eighty-eight, and shall be signed by the treasurer : and also certificates of the following tenor, viz.

TREASURY-OFFICE, } July 31, 1788.
STATE OF NEW-HAMPSHIRE.

I JOHN TAYLOR GILMAN, treasurer of the state of New-Hampshire, do hereby certify that there is due from said state to

lawful money, and the several constables and collectors within this state, are hereby directed to receive this certificate in payment of all assessments and taxes for the use of this state, which are payable in facilities, and the same shall be received by the treasurer of this state.

Witness my hand,

TREASURER.

which certificates shall be signed by the treasurer.

And be it further enacted by the authority aforesaid, That Dudley Odlin, Joseph Pearson and Ephraim Robinson, Esquires, or any two of them, are appointed a committee to countersign all and any notes that may be

be issued by the treasurer in consequence of the foregoing act.

Provided always, That this act shall not be in force until the thirty-first day of July next.

Passed June
11, 1784.

AN A C T for paying the interest, and sinking part of the principal of this state's debt.

Preamble.

WHEREAS the payment of public taxes would be greatly facilitated, were certificates allowed to be received in part discharge thereof:

Therefore,

Treasurer to
issue certifi-
cates for in-
terest, &c.

BE it enacted by the senate and house of representatives in general court convened, That the treasurer of this state be impowered and directed to issue certificates for the interest due on all securities for monies borrowed by this state: and also that the loan-officer issue certificates for the interest due on all monies loaned at said office in this state, belonging to the inhabitants thereof, calculating the interest due on said loan-office certificates, until the 28th day of February last, according to the continental scale of depreciation.

Loan officer
to issue certi-
ficates, &c.

Treasurer to
issue certifi-
cates to the
amount of
15 per cent.

And that the said treasurer is hereby further impowered and directed to issue certificates to the amount of fifteen per cent. on all the principal of all state securities, owned by the inhabitants thereof, in case the owners of such securities request the same. And all said last mentioned certificates shall be received by the treasurer of this state, and collectors of the taxes thereof, for all taxes due to this state, prior to the present year; and that the last mentioned certificates be worded accordingly. *Provided nevertheless,* that this act shall not be in force until the 31st day of July next.

Passed Jan.
16, 1782.

• AN A C T for liquidating the public securities of this state, adjusting the interest on the same, and authorizing the treasurer to issue notes, payable in gold or silver.

WHEREAS the public securities of this state, have been given out at various periods, and the depreciation of paper money has been such, that the real value of such

*such securities, in many instances, is not therein as-
certained, and it being necessary that the interest due
thereon should be discharged :*

Therefore,

BE *it enacted by the council and house of representatives
in general court assembled, and by the authority of the
same it is hereby enacted,* That each and every person
possessed of any public securities of this state, may bring
the same into the treasury, and the treasurer is hereby
impowered and directed to liquidate the same, agreea-
bly to the scale of depreciation, and the act passed there-
on, September the first, one thousand seven hundred and
eighty-one, and shall give new notes for principal and
interest so liquidated, or shall give certificates for the
interest, or any part thereof, to any person who may
incline to receive the same, and give notes for the sum
that shall remain, after the amount of such certificate
is deducted ; which notes and certificates shall be in
the forms hereafter prescribed in this act.

And be it further enacted by the authority aforesaid, That the treasurer shall compute the interest upon all
such securities, up to the last day of July next. And
all new notes, by him given as aforesaid, shall bear date
on that day.

And be it further enacted, That when any person
shall decline receiving new notes, in lieu of the
securities brought in as aforesaid, the treasurer shall
compute the interest on such securities, up to the said
last day of July, and give certificates therefor, and in-
dorse the same on such securities.

And be it further enacted, That the treasurer be, and
hereby is directed and impowered annually to discharge
the interest, which may become due, after the said last
day of July next, on the public securities of this state,
(if requested) and in case the state of the treasury will
not admit of his paying the same in specie, he is hereby
authorized to give certificates therefor, and indorse
the same on such securities, which certificates shall be
received in all future state taxes, equal with silver and
gold.

And be it further enacted by the authority aforesaid, That all notes which have been given to officers and
soldiers for depreciation of wages, be estimated and
received equal to silver and gold.

And

Preamble.

Treasurer di-
rected to give
new notes for
principal and
interest of
public securi-
ties.

Interest to be
computed to
the last day
of July.

Treasurer to
give certifi-
cates.

Depreciation
notes to be
equal to silver
and gold.

And be it further enacted, That the form of the notes to be given by the treasurer, shall be as follows, viz.

STATE OF } *July 31st, 1782.*
NEW-HAMPSHIRE. } No.

Form of notes
to be given
by the trea-
surer.

IN behalf of the state of New-Hampshire, I the subscriber do hereby promise and oblige myself and successors in the office of treasurer of said state, to pay to or bearer, lawful money, in gold or silver, on demand, with six per centum interest therefor, to be paid annually, if demanded, it being for value received for the use of said state.

Witness my hand,

Treasurer.

A. B. }
C. D. } Committee.

Comit. to
counterfign
notes.

And be it further enacted, That Mr. Noah Emery, Mr. Joseph Pearson, and Mr. Ephraim Robinson, be, and they hereby are appointed a committee, any two of whom to countersign said notes.

And be it further enacted, That the certificates for interest be in the following form, viz.

STATE OF } No.
NEW-HAMPSHIRE. }

Form of cer-
tificates.

I Treasurer of the state of New-Hampshire, do hereby certify, that there is due to for interest on public securities of this state, lawful money, and the several constables and collectors within this state, for the current year, are hereby directed to receive this certificate, in payment of all assessments and taxes, for the use of this state, in lieu of, and equal to gold and silver, and the same shall be so received by the treasurer of this state for the time being, for any state taxes for the current year, and in all future state taxes.

Given under my hand the 31st day of July, 178

Treasurer.

Officers, &c.
may receive
notes and
certificates
for balances
due.

And be it further enacted, That all officers and soldiers, whose accounts for depreciation of wages up to the last day of December one thousand seven hundred and seventy-nine, are now unsettled, may, if they shall choose the same, receive notes and certificates for the balances due to them, in the forms prescribed in this act, in lieu of the notes heretofore directed to be given them.

AN

TREASON AND CRIMINAL OFFENCES.

AN ACT for the better preventing criminal offenders from avoiding justice.

Passed March 10, 1780.

WHEREAS criminal offenders in order to avoid justice, frequently escape from one state to another, and from one county to another within this state :

Preamble.

BE it therefore enacted by the council and house of representatives in general assembly convened, and by the authority thereof, That when any criminal offender or offenders in any other of the United States, shall make his or their escape from justice, and come into this state, and any proper process shall issue where he or they committed the offence, and he or they shall be pursued and followed into this state, it shall be in the power of any justice of the peace, within this state, in his respective county, on application to him made, to issue his warrant against such offender or offenders, that they may be brought before him, or some other justice of the peace, of the same county, to be examined thereon, and if he shall think proper, on such examination, he may, and hereby is impowered to commit; or by warrant under his hand and seal, directed to the sheriff or his deputy, or the constables of the several towns, as may be necessary to send and convey such offender or offenders to the confines of this state, and there deliver such offender to some proper officer in the next state, that such offender may be conveyed to the place where the offence is alledged to have been committed, to be holden to answer for such offence according to law there.—And where it shall be necessary such offender be conveyed through several counties in this state, in order for his being returned to the place where he offended as aforesaid, every of the justices of the peace in their respective counties, shall be, and they are hereby impowered, by warrant as aforesaid, to order and direct the conveyance of such offender, through their several counties, towards the place where he offended.

Criminal offenders escaping from justice.

Justices of the peace to issue their warrants against offenders.

Send and convey offenders to the confines of this state, and deliver them to some proper officer in the next town

Justice of the peace impowered to convey offenders towards the place where they offended

And be it further enacted, That when any justice of the peace, in any county in this state, shall issue his warrant against any criminal offender, for an offence committed in such county, and the said offender shall have

Justices of the peace issuing warrants, &c.

D d

escaped

escaped into any other county, it shall be in the power of any justice of the peace, in such county where the offender is, to proceed in the same method, in apprehending such offender, and sending him back for trial, to the county where the offence is said to have been committed, as in the case aforesaid, when the offender shall have come from another of the United States.

Justices
throughout
the State, if-
suing war-
rants, &c.

And be it further enacted by the authority aforesaid, That when any justice of the peace, commissioned a justice in every county of this state, or throughout this state, shall issue his warrant for the apprehending a criminal, in a different county than where the offence is said to be committed, the said warrant may be executed by the proper officer to whom the same shall be directed, in the same manner as a warrant in criminal matters, from the clerk of any court of the general sessions of the peace in this state.

Sheriffs un-
der-sheriffs,
constables,
&c. of the
neighbour-
ing states to
pass and re-
pass.

And be it further enacted by the authority aforesaid, That all sheriffs, under-sheriffs, constables, or other officers of justice of the neighbouring states, with their assistants, in the execution of any writ, warrant, or other process, issuing from, and returnable to their respective states, may, and shall have full liberty, power and authority to pass, and repass, and also to convey such persons and things, as they have in their custody, by virtue of any writ or warrant as aforesaid, in or by any of the roads or ways, lying or leading through any of the towns or lands of this state, in as full and ample a manner, as the officers of justice of this state, do use and exercise in the discharge of their duty and office: and all persons insulting and obstructing such officers of justice, of the neighbouring states, in the due execution of their office, as they are passing through any of the roads or lands of this state, shall be subject to the same pains and penalties, as are provided for the protection of the respective officers of justice within this state.

No insults or
obstructions
to be offered.

Passed Jan.
17, 1777.

AN ACT against treason and misprision of treason, and for regulating trials in such cases, and for directing the mode of executing judgments against persons convicted of those crimes.

WHEREAS

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WHEREAS all persons passing through, visiting, or making a temporary stay in this state, and enjoying the protection of its laws, during their residence therein, as well as the inhabitants of this state, owe allegiance to the same :

Preamble.

BE it enacted by the council and house of representatives in general court assembled, That all such persons as above described, who shall either within or without the limits of this state, levy war, or conspire to levy war against the same, or against any other of the United States of America, or shall in any way whatsoever, aid the enemies of either, or all of the said United States, in carrying on war against them, or either of them, and thereof be convicted, such persons shall be deemed and adjudged guilty of treason against this state, and shall suffer death without benefit of clergy.

Who deemed guilty of treason.

Be it further enacted by the authority aforesaid, That all persons owing allegiance to any other of the said United States, who shall within this state, levy war, or conspire to levy war against this or any other of the said United States, or shall, in any way whatsoever, aid the enemies of either or all the said United States, in carrying on war against them, or either of them, and thereof be convicted, such persons shall be deemed and adjudged guilty of treason against this state, and shall suffer as is aforementioned.

Treason.

And be it further enacted by the authority aforesaid, That the concealing or keeping secret any such treason, be deemed misprision of treason, and the offender therein shall forfeit to the use of this state, all his goods and chattels, and the profits of his lands during his life, and shall be imprisoned at a term not exceeding five years, at the discretion of the court before whom he shall be convicted.

Misprision of treason.

And be it further enacted by the authority aforesaid, That any person who shall know of any such treason committed, or intended to be committed, and shall not, within fourteen days, give information thereof, to one of the justices of the superior court of judicature, or some justice of the peace within this state, shall be deemed guilty of misprision of treason.

Information to be given in 14 days.

And be it further enacted by the authority aforesaid, That all treasons and misprisions of treasons against this state,

state,

Treasons
committed
without this
state.

state, which shall hereafter be committed by any person or persons without this state, shall be inquired of, heard and determined before the justices of the superior court of judicature within this state, in the county where such offender or offenders last dwelt, in like manner and form as if such treasons or misprisions of treasons had been committed within the same county.

To be first
indicted.

And be it further enacted by the authority aforesaid, That no person or persons whatsoever, shall be tried for such treasons or misprisions of treasons within this state, until a bill of indictment for any such offences against him, or them, be found by fifteen at least of the grand jurors for the said superior court, within the county where such trial is to be had.

Outlawry.

If the party
yield himself
within one
year.

And be it further enacted by the authority aforesaid, That any person or persons residing without this state, being indicted for any the treasons or misprisions of treasons before described, or any person or persons who after being so indicted, shall flee to avoid a trial, such persons may be outlawed, and thereupon adjudged for any of the said offences, but if the party so outlawed, within one year next after the said outlawry pronounced, or judgment given thereon, yield himself unto the chief justice of this state, for the time being, and offer to traverse the indictment whereupon such outlawry is pronounced, that then he shall be admitted to the said traverse, and being thereupon found not guilty by the verdict of twelve good and lawful men, he shall be acquitted and discharged of the outlawry, and of all penalties and forfeitures by reason of the same.—And where after such outlawry, the party outlawed, shall come in and be tried, as aforesaid, he shall, upon such trial, have the full benefit of this act, as though no such outlawry had been adjudged.

To be ad-
mitted to tra-
verse the in-
dictment.

Forfeiture of
estate.

And be it further enacted by the authority aforesaid, That if such person or persons shall not yield himself or themselves within one year next after sentence of outlawry, he or they shall forfeit to the use of this state, their whole interest and property, real and personal, wherever the same may be found, of which real property this state shall be deemed and adjudged to be seized and possessed, without any office found of the same.

And be it further enacted by the authority aforesaid, That every person whatsoever, that shall be accused and

and indicted for treason or misprision of treason, shall have a true copy of the whole indictment delivered unto him or them by the clerk forty-eight hours at least before he or they shall be arraigned for the same, and also a copy of the panel of the jurors who are to try him or them for the like space of time before trial, and shall be admitted to make his or their defence by counsel learned in the law, which, if requested, the court shall assign him or them, to whom counsel shall have free access at all seasonable hours.

To have a copy of indictment and panel 48 hours before arraignment or trial.

And be it further enacted by the authority aforesaid, That no person or persons shall be convicted of treason or misprision of treason, but upon the testimony of two lawful witnesses at least, both of them testifying to the same treason, unless the person indicted, voluntarily in open court confess the same.

Two witnesses necessary.

And be it further enacted by the authority aforesaid, That if any person indicted for treason or misprision of treason, and being arraigned thereupon, shall stand mute, a jury shall forthwith be impanelled and sworn to try whether the person so standing mute, standeth mute by the providence of God, or fraudently, wilfully and obstinately; and if they shall return their verdict, that he standeth mute by the providence of God, the court shall thereupon cause him to be remanded to prison, and shall not proceed against him until he shall have recovered therefrom, but if the jury shall return their verdict, that the prisoner standeth mute fraudently, wilfully and obstinately, then the court shall cause to be entered upon the indictment against the prisoner the plea of *not guilty*, and shall proceed upon his trial in like manner in all respects as if the prisoner had voluntarily pleaded the same plea, and put himself upon the country for his trial, except that the prisoner shall not be admitted to make any challenges to the jurors.

Standing mute. Jury to be impanelled.

To be remanded in case.

Plea of not guilty to be enter'd on the indictment.

To make no challenges in such case.

And be it further enacted by the authority aforesaid, That every person indicted for treason or misprision of treason, who shall have only pleaded to such indictment and put himself upon the country for trial, shall be admitted to challenge, without assigning any reason, twenty-three of the jury and no more, and as great a number further as he can shew good cause for challenging. And if any person indicted as above, after having voluntarily pleaded as aforesaid, shall refuse to put himself

To challenge 23 jurors peremptorily.

If more, to
be disallow-
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self upon the country for trial, or shall peremptorially challenge a greater number than twenty-three, the court shall disallow of all such challenges, over and above the said number of twenty-three, and the jury shall be charged, and the trial shall proceed in like manner in all respects as if the person so indicted, and having pleaded as aforesaid, had duly put himself upon the country for his trial, and had not peremptorially challenged a greater number than twenty-three of the jury as aforesaid.

And be it further enacted by the authority aforesaid, That the attorney-general or any other person prosecuting for, and in behalf of this state, shall not be admitted in any case whatsoever, peremptorially to challenge any juror about to be impanelled for the trial of any criminal accusation or charge.

And be it further enacted by the authority aforesaid, That no person or persons whatsoever shall be indicted or tryed for any treason or for misprision of treason that shall be committed in violation of this act, unless the indictment for the same be found within two years next after the offence committed.

And be it further enacted by the same authority, That every person who shall be convicted of treason within this state, and adjudged to suffer death, shall be hanged by the neck till dead. Any law or custom to the contrary notwithstanding.

And be it further enacted by the authority aforesaid, That any person who shall be found guilty of treason or misprision of treason against this state, may be pardoned by the council and house of representatives of this state, by a warrant under the seal of this state.

And be it further enacted by the authority aforesaid, That no person upon whom any judgment or sentence of death shall be passed by the justices of the superior court of judicature for this state, shall be put to death in pursuance of such judgment or sentence, until the whole record of the case be certified by the clerk of the same court, under the seal thereof, to the said council and house of representatives, nor 'till they shall issue a warrant under the seal of this state, with a copy of said record annexed, directed to the sheriff of the county wherein the trial of the person so condemned, was had, commanding the same sheriff in the name of the

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the government and people of said state, to cause execution to be done upon the person so condemned, in all things, according to the judgment against him. And the sheriff to whom such warrant shall be directed, is hereby authorized and required to execute the same in due form of law.

MISCELLANEOUS MATTERS.

AN A C T for the better preservation and increase of deer within this state. Passed Nov. 25, 1778.

WHEREAS the killing of deer at unseasonable times of the year, hath been found very much to the prejudice of this state ; great numbers thereof having been hunted and destroyed in deep snows, when they are very poor and big with young, the flesh and skins of very little value, and the increase thereof greatly hindered : Preamble.

BE it therefore enacted by the council and house of representatives in general court assembled, and by the authority of the same, That no person or persons whatsoever, within this state, from and after the last day of December in this present year, 'till the first day of August in the year of our Lord, one thousand seven hundred and seventy-nine, and so from the last day of December, to the first day of August following, annually, forever hereafter, shall any ways whatsoever, kill any buck, doe or fawn, on pain that such person or persons shall forfeit the sum of fifteen pounds, the one half thereof to be for the use of this state, and the other half to be for the use of the person who shall inform of, and sue for the same ; and that any two of the justices of the peace within the county where such offence shall be committed, be and hereby are impowered to hear and determine all suits that shall arise relating thereto. And if any person or persons offending as abovesaid, shall not have wherewithal to pay his or their fine or fines, he or they shall work thirty days for the first offence, and fifty days for every offence afterwards, as shall be determined by any two justices of the peace within the county where the offence shall be committed,

committed, who are hereby authorized and impowered to hear and determine the same ; and the wages and earnings of the offender shall be employed to and for the uses and ends aforesaid.

And if any venison, skin or skins of any buck, doe or fawn, newly killed, shall at any time in any of the aforesaid months, wherein by this act they are prohibited to be killed, be found with, or in possession of any person or persons whatsoever, such person or persons shall be held and accounted in law to be guilty of killing deer contrary to the intent of this act, as fully as if it were proved against such person by sufficient witness, viva voce ; except such person do bring forth and make proof who was the person or persons that sold or killed the same : provided nevertheless, that it shall not extend to tame deer, or those kept in inclosures.

And be it further enacted by the authority aforesaid, That every town and parish within this state, at their annual meeting, shall make choice of two proper persons to inspect and search any suspected places or houses where any such deer, or deer kind aforesaid, may be killed or hid ; and that they shall be sworn to the faithful discharge of their said office.

Passed June
17, 1782.

Preamble.

AN A C T for repealing all the laws heretofore made by the province, colony, or state of New-Hampshire, relating to killing wolves, and for fixing the premiums hereafter to be given for killing those animals.

WHEREAS the several acts above-mentioned, have been found insufficient for answering the salutary purposes thereby intended, and the killing wolves being highly beneficial to this state :

Therefore,

BE it enacted by the council and house of representatives in general court assembled, and by the authority of the same, That the several acts above mentioned, be and they hereby are repealed and made null and void.

And be it further enacted by the authority aforesaid, That from and after the passing this act, whosoever shall kill, or destroy any grown wolf, or wholf's whelp, within the limits of any town, situate in this state, and bring

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bring the head thereof unto the constable of the town in which such wolf or whelp hath been killed; or if killed in this state, without the bounds of any town belonging thereunto, then to the constable of the town next adjacent, unto the place of killing such wolf or whelp, shall have a receipt for the same; and the constable shall cut both the ears from the head of such wolf or whelp, and the party producing the constable's receipt to the treasurer of this state, for the time being, shall be allowed and paid out of the treasury, the sum of three pounds for every head of a grown wolf, and the sum of thirty shillings for every head of a wolf's whelp, by him so killed or destroyed.

AN ACT to regulate ferries.

Passed Feb.
28, 1783.

WHEREAS the demands of ferrymen within this state, for carrying the subjects thereof, and others, their horses, cattle and carriages, across the rivers in the same state, are exorbitant and arbitrary, and many of said ferrymen neglect giving due attendance on passengers: also the boats of some are out of repair:

Preamble.

For remedy whereof,

BE it enacted by the council and house of representatives in general assembly convened, and by the authority of the same; That the justices of the courts of general sessions of the peace in every county, having therein a ferry or ferries throughout this state, may and they are hereby required, in their court of sessions, to estimate and ascertain the rates of ferriage in all its branches, for each particular ferry in such county, which being done, the same shall be entered in the clerk's book in every such county, and the said justices are further required to cause a copy of such order of court touching said rates, to be served on every ferryman in each such county (at the charge of the same) who shall affix such list of rates, in some conspicuous place in his house, where every passenger may have access thereto. And every ferryman shall be governed by such order of court, and take no more for any particular service than the sum therein mentioned.

Justices of
Sessions to es-
timate the
rate of fer-
riage.

And be it further enacted, That if any ferryman shall demand and receive for any service before-mentioned,

Ferryman receiving more than the rates specified, to pay damages. a greater sum of money than in the before-mentioned order of court specified, and if any suit shall be commenced by any person aggrieved, for the overplus, before any justice of the peace in the county where the offence shall arise, and judgment be rendered for the plaintiff, such justice shall give judgment against the defendant for damages and cost of suit.

Good boats to be kept.

Penalty.

Forfeiture.

And be it further enacted, That every ferryman within this state shall keep a good boat or boats, in good repair, suitable to the waters they are to ferry over, and also shall give ready and due attendance on passengers, upon all occasions, on penalty of twenty shillings for every default in attendance, and for want of such sufficient boat or boats as aforesaid, to forfeit and pay the sum of forty shillings, one half to the county wherein the offence shall arise, and the other half to him or them who shall inform or sue for the same, to be recovered either in a summary way before a justice of the peace, in each respective county, or at a court of general sessions.

Passed Nov. 10, 1785.

Preamble.

AN ACT in addition to, and amendment of an act, intituled "An act for repealing all the laws heretofore made by the province, colony, or state of New-Hampshire, relating to killing wolves; and for fixing the premiums hereafter to be given for killing those animals, passed the seventeenth day of January, A. D. one thousand seven hundred and eighty-two. *WHEREAS* the bounties given by said act, are found insufficient to answer the design of the same:

Therefore,

Premium.

BE it enacted by the senate and house of representatives in general court convened, That instead of three pounds for each wolf, as given by said act, the premium of six pounds, for killing each wolf, as in said act directed, is hereby given; and instead of thirty shillings, as there given for every wholf's whelp, the premium of three pounds is hereby given.

Selectmen to receive the heads, &c.

And be it further enacted, That instead of the constables receiving the heads, and cutting the ears from such wolves or whelps so killed, as in said act is provided, the selectmen of the respective towns in this state, are

are hereby impowered to receive the heads of any wolf or whelp so killed, within the same town, or within any adjacent town within this state, where there are no selectmen, and give receipt accordingly.

AN A C T for the relief of idiots and distracted persons.

Passed March 21, 1776.

BE it enacted by the council and assembly, and it is hereby enacted, That it shall and may be in the power of the judge for the probate of wills and for granting letters of administration in each county, within this colony, from time to time (upon request made by the relations or friends of any idiot, non-compos, lunatic or distracted person, or the overseers of the poor in such town where the said idiot or distracted person lives, or is an inhabitant) to direct the selectmen of such town to make inquisition thereinto; and if the person, said to be an idiot, or distracted, shall be so determined, by the judge of probate in such county and selectmen of the town (or major part of them) wherein such idiot, or distracted person lives, then, and in that case, the said judge of probate shall assign and appoint some suitable person or persons to be guardian or guardians of such idiot, or non-compos, directing and empowering such guardian, or guardians to take care as well of the person, as estates, both real and personal, of the said idiot or distracted person, and to make a true, and perfect inventory of the said estates, to be returned to, and filed in the register's office of the court of probate, within such county.

Judge of probate to appoint guardians for idiots.

What the selectmen are to do.

Inventory of his estate to be made.

And be it further enacted by the authority aforesaid, That the judge for the probate of wills, and granting administrations in each county, within this colony be, and hereby is, fully authorized and impowered to call before him, and to require, and administer an oath unto any person or persons, probably suspected of making any concealment, embezzlement, or conveying away, any of the money, goods, or chattles, of any such idiot, non-compos, lunatic, or distracted person as well upon the complaint of any heir, creditor or other person having lawful right, or claim to, or in such estate, as of the said guardian or guardians: and in case any such

Power of the
judge to im-
prison.

such suspected person was intrusted by the said idiot, non-compos, lunatic or distracted person, or was otherwise conversant with, or near unto him at the time of his lunacy, or distraction, or is in possession of the estate, or any part of it, whereby to strengthen and make the suspicion more violent, and shall refuse to clear, and acquit him or herself upon oath, it shall and may be lawful for the several judges of probate within this colony, and they are accordingly impowered, and directed, to commit such person or persons so refusing to swear, unto the gaol of such county to which such judge shall belong, there to remain, until he or she shall comply to discharge him, or herself upon oath as aforesaid, or be released by consent of the guardian or guardians, heir, creditor, or other person, having lawful right or claim to or in such estate as aforesaid.

Guardians to
account for
the profit.

And be it further enacted by the authority aforesaid, That the guardian or guardians, appointed as aforesaid, shall improve frugally, and without waste and destruction; the estate of the idiot, non-compos, lunatic or distracted persons, and apply the annual profits and incomes thereof, for the comfortable maintenance and support of the said idiot, lunatic, non-compos, or distracted person, and also of his household or family (if any such he have) and that the said guardian or guardians, be and hereby are impowered to settle accounts, receive, (and if need be) sue for and recover all such just debts as shall be due to the said idiots, distracted person or non-compos, from any person or persons whomsoever, and to manage, improve, divide, or take care of the real estate of such idiot, or person distracted, or non-compos, in as full and ample manner, as the said persons could or might do, were they restored to their right mind; and also shall be subject to the payment of all such just debts, owing by such persons which were contracted before their distraction, out of the personal estate of such idiot person, non-compos, or distracted, or in case that be not sufficient, then out of the real estate, being first impowered to make sale thereof, or of such part thereof as is sufficient for the end, by the justices of the superior court of judicature, upon application to them made therefor, who are hereby authorized and impower'd to order the same: And in case the said distracted persons shall

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come, or be restored to their right mind, the residue of his or her estate, both real and personal shall be delivered, and returned to them, or to their respective heirs, executors, or administrators, in case of their death, as the law directs, the guardian or guardians having first such a reasonable allowance out of the same for their charges and trouble, as the judge of probate (having cognizance of the same) shall order.

What to be done when the ward shall be restored.

And be it further enacted by the authority aforesaid, That the guardian or guardians, appointed as aforesaid, shall give bond to the judge of probate for the time being in such county where such idiot, distracted person or non-compos, shall reside, in a reasonable sum with sufficient sureties, for the faithful discharge of the trust, in them reposed, more especially, for the rendering a just and true account of their said Guardianship, when and so often as they shall be thereunto required: Saving always the right of appeal to the council and assembly, as a supreme court of probate, from the sentences and decrees of any of the said judges of probate.

Guardians to give bond.

And it is hereby further enacted, That the guardians so appointed shall have full power to defend any suit, action or process, that is or shall be prosecuted, against any lunatic, non-compos, or distracted person, and be pending at the time of the appointment of such guardian, that no injury may be done to such lunatic, non-compos, or distracted person or his estate, nor any just and lawful creditor defrauded, delayed or kept out of his just demand: And the estate of such lunatic, non-compos or distracted person, shall on execution, be liable to be taken to satisfy the final judgment which shall be recovered in such case, as it might if no such disability had ever happened.

Guardians to defend suits, &c.

Provided nevertheless, That any person being by profession a quaker, shall be allowed to take his or her solemn affirmation, instead of the oath, when thereto required as aforesaid.

A N A C T for the better regulation of marriages' and for punishing the neglect of registering births and burials. Passed July 3, 1776.

B E it enacted by the council and house of representatives, in general assembly convened, That it shall and

Ministers and justices of the peace to join persons in matrimony.

and may be lawful for any ordained minister of the gospel in any town or parish within the county where he is settled (and no other place) and for any justice of the peace in the county for which he is commissioned, and for no other place whatsoever) to join persons in marriage, *provided* the said persons shall have been published three public meeting days in the town or towns, parish or parishes where such persons respectively live, and shall before the solemnization of such marriage produce to the said minister, or justice, a certificate of such publishing, under the hand of clerk or clerks of the towns or places, where such persons so to be married live.

Fine for marrying persons without a certificate of their being published.

And if any minister or justice shall presume to join any persons in matrimony (without first having received such certificate as aforesaid) such minister or justice shall for every such offence, forfeit and pay the sum of one hundred pounds, one half part thereof to the use of the colony, and the other half to the use of the informer who shall sue for the same in any court of record within this colony. And whosoever shall so join in marriage such persons, shall within one month after such solemnization, take care to have such marriage recorded by the town clerk, but if said minister or justice so marrying neglect it above one month, then to pay six shillings per month until recorded.

Fine on any person besides ministers and justices for marrying persons.

And if any other person (than a minister of the gospel or magistrate as aforesaid) shall presume to join in matrimony any person either with or without a certificate of publishment, such person so presuming and actually joining others in marriage, shall forfeit and pay the sum of one hundred pounds, one half to the use of the country where such person offending may be thereof convicted, the other half to the informer: saving only to the people called Quakers, their customary way of marriage, as established in their meetings.

Town clerks to record births, burials and marriages.

And be it enacted by the authority aforesaid, That the clerk in every town, within this colony shall record births, burials and marriages, and all persons concern'd are to give notice thereof to the clerk within one month and pay two pence (if in one month) otherwise two pence for every month after until done.

And be it further enacted by the authority aforesaid, That where there is no town or parish clerk to publish

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or certifie the publication of persons to be married as aforefaid, in that cafe (upon application made) the clerk of the next adjacent town or parish shall publish such persons and give such certificate as aforefaid, which publication and certificate shall be accounted good and legal as if there was such clerk or clerks in such town or parish where such persons so intending to marry do reside.

Where there is no town clerk, persons may be published by the clerk of the next adjacent town.

AN ACT to repeal sundry acts of this state, relating to taverners, innholders, retailers and common victual-
lers ; and for regulating taverns, inns, and retailers within said state.

Passed Dec. 26, 1778.

WHEREAS the after-mentioned acts, viz. *The act intitled, "An act for the inspecting and suppressing of disorders in licensed houses ;" the act intitled, "An act for preventing gaming in public houses ;" the act intitled, "An act for granting unto his majesty an excise on several liquors ;" the act intitled, "An act in addition to an act, intitled an act for the suppressing disorders in licensed houses ;" and the act intitled, "An act in addition to an act for the preventing of gaming in public houses ;" have been found ineffectual for the purposes for which they were made : And some regulation in those matters being necessary.*

Preamble.

Therefore,

BE it enacted by the council and house of representatives in general assembly convened, and by the authority of the same, That the several acts afore-mentioned, be and hereby are repealed, annuled and made void.

And be it further enacted by the authority aforefaid, That if any person or persons within this state, shall, after the first day of May next, sell any wine, rum, brandy or other spirits, in any lesser quantity than fifteen gallons to be delivered at one time, without the approbation of the selectmen (if any there be) of the town, parish, or place where he or she dwells, and a licence from the court of general sessions of the peace within the county where such person dwells (if any there be) he, or she shall forfeit and pay the sum of ten pounds, for every such offence; one half for the use of the person or persons who shall inform or complain thereof,
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the other half for the use of the county where such offence shall be committed, to be recovered before any two justices of the peace within the said county. And the oath of two credible witnesses to each fact, shall be deemed sufficient evidence thereof.

And be it further enacted by the authority aforesaid, That every taverner and innholder in this state, shall at all times be furnished with suitable provisions and lodging, for the refreshment and entertainment of strangers and travellers, and with stable-room, pasturing, hay and provender for horses, in the proper seasons therefor, on pain of being deprived of his or her licence. And that no person who is, or shall be licenced as an innholder or taverner shall suffer any inhabitant of such town or place where he or she dwells, to sit drinking or tipling after nine of the clock at night, in his or her house, or the appendages thereof (other than persons upon business) nor shall willingly suffer any person or persons to drink to excess, or to drunkenness; in his or her house, nor shall suffer any person as his or her guest to be and remain in such house or the appendages thereof, on the Lord's day, other than strangers, travellers, and such as come there for necessary refreshment, on pain of forfeiting forty shillings for every of said offences; one half for the use of the poor of the town or place where such offence is committed, and the other half to the use of the person or persons who shall inform or complain of the offence. And every justice of the peace within his precinct, is hereby impowered to hear and determine such offence, and to commit the offender unto prison, until he or she pay the forfeiture and costs, or cause the same to be levied by distress and sale of the goods of the offender.

And be it further enacted by the authority aforesaid, That every person who shall sit drinking in any licenced house as aforesaid, after nine of the clock at night, other than travellers, persons upon business, or lodgers there, shall pay a fine of forty shillings for every such offence, for the use of the town where such offence is committed.

And be it further enacted by the authority aforesaid, That no retailer shall sell any mixed liquor or drink to any person or persons whomsoever, directly or indirectly; nor suffer any person to drink any mixed liquor,

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quor, or any strong drink or liquor so sold within the said retailer's house, or the appendages thereof, under the penalty of ten pounds; to be recovered and disposed of as the forfeiture for selling wine or spirits without licence; (and every person who shall be found drinking mixed or strong liquor, sold as aforesaid, in any retailer's house, or the appendages thereof, shall for every such offence, pay the sum of forty shillings for the use of the poor of the town or place where such offence is committed, on complaint to a justice of the peace.)

And for the better inspecting licensed houses, and discovery of such persons who shall sell spirits without licence, and of retailers who shall sell mixed liquors:

Be it enacted by the authority aforesaid, That the selectmen in each town and parish respectively, shall take due care that tythingmen be annually chosen at the annual meeting for the choice of town officers, whereof two at least shall be in each town or parish, and not more than six in any; which tythingmen shall have power, and whose duty it shall be carefully to inspect all licensed houses, and to inform of all breaches of this act to a justice of the peace immediately, or to the next court of general sessions of the peace in the county where the offence shall be committed. And every tythingman before he enters upon his duty shall take the following oath, viz.

You swear that you will duly inform some justice of the peace of all persons who shall sell wine and other spirits contrary to law, of all disorders and misdemeanors in licensed houses, of all retailers who shall sell mixed liquors, or suffer them to be drank in their houses or the appendages thereof, and of all other breaches of this law, and of the peace, so far as it shall come to your knowledge.

And every person being legally chosen tythingman, who shall refuse to serve in said office, and to take said oath, shall forfeit and pay for the use of the town or parish where he is chosen, the sum of five pounds, to be recovered by the selectmen in like manner as the said forfeiture for selling wine and spirits without licence.

And whereas gaming in licensed houses is attended with pernicious consequences:

Be it therefore enacted by the authority aforesaid, That

no licenced person shall have or keep in, or about his or her house, out-houses, yards, gardens, or places, to him or her belonging, any cards, dice, nine-pins, tables, bowles, shuffle-boards, billiards, or any other implements used in gaming, nor shall suffer any person or persons to use or exercise any of the said implements, in his or her house, or any of the appendages thereof, or to play at any game, under the penalty of twenty pounds; one half to the use of the poor of the town or place where the offence shall be committed, and the other half for the use of the person or persons who shall complain or inform of the said offence. And that no person shall play at any or either of the games aforesaid, or use and exercise the implements aforesaid, or any other implements used in gaming, at any licenced house, or the appendages thereof as aforesaid, under the penalty of six pounds for every such offence; one half for the use of the poor of the town or place where such offence is committed, the other half for the use of the person or persons who shall inform or complain of said offence; said penalties to be recovered as the forfeitures for selling wine and spirits without licence.

Provided nevertheless, That all complaints for any breach of this act shall be made and prosecuted within three months after the offence is committed.

Provided also, That this act take place and be in force from and after the first day of May next, and not sooner.

Passed March
30, 1781.

Preamble.

AN ACT to repeal a certain clause of an act intituled "An act to repeal fundry acts of this state relating to taverns, inns and retailers within this state, passed December 26th, 1778.

WHEREAS in and by said act in a certain clause of the same it is enacted in the following words, viz.

"And every person who shall be found drinking mixed or strong liquors, sold as aforesaid in any retailers house or the appendages thereof, shall for every such offence pay the sum of forty shillings for the use of the poor of the town or place where such offence is committed on complaint to a justice of the peace :"

Be

BE it therefore enacted by the council and house of representatives in general assembly convened, and by the authority of the same, it is hereby enacted, That the aforesaid clause in the words above recited, be and hereby is repealed and made null and void to all intents and purposes.

AN A C T in addition to an act intituled "An act to repeal fundry acts of this state relating to taverners, innholders, retailers and common victuallers, and for regulating taverns, inns and retailers within said state."

Passed March 22, 1782.

WHEREAS the said act prohibits any persons selling spirituous liquors without approbation of the selectmen of the town or place where they dwell, and a licence from the court of general sessions of the peace for the county where such persons reside ; but makes no provision for the renewal of such approbation and licence which is found necessary.

Preamble.

BE it therefore enacted by the council and house of representatives in general assembly convened, and by the authority of the same, That each and every person, who shall presume to exercise and carry on the employment of a taverner or retailer of spirituous liquors, for a longer term than one year from the time of their respectively obtaining licence therefor, without renewing such licence in due form, shall forfeit, and pay the sum of three pounds respectively for each and every such offence, to be recovered in the manner, and for the purposes in said act mentioned for selling wine, rum, brandy and other spirits without approbation and licence.

Penalty for selling liquors without renewing licence.

And be it further enacted by the authority aforesaid, That the several courts of general sessions of the peace in and for said state, are hereby inhibited granting or renewing licence for any taverner or retailer within their respective counties, who shall not exhibit in the respective courts, a proper approbation for that purpose, signed by the major part of the selectmen of the town or place where such person or persons applying for the same respectively dwell.

Gen. sessions not to grant or renew licence for any taverners, &c. without an approbation.

Provided always, That when it shall be made to appear

Provide.

pear to any court of sessions of the peace in the respective counties, that the selectmen of any town, parish or place unreasonably refuse to renew any such approbation, or that there are no selectmen for the town, parish or place, where the person or persons applying for such, respectively dwell, such courts of general sessions of the peace, are hereby authorized and impowered, to grant licence to such and so many of the persons, so applying therefor, as the said court shall judge necessary for the public good.

This act to continue and be in force for the term of three years and no longer.

Passed June
25, 1787.

AN ACT for reviving an act, intituled "An act in addition to an act intituled an act to repeal sundry acts of this state, relating to taverners, innholders, retailers and common victuallers, and for regulating taverns, inns and retailers within said state," passed March twenty-two, one thousand seven hundred and eighty-two.

Preamble.

WHEREAS said act is expired, and it is thought necessary to revive the same :

Therefore,

BE it enacted by the senate and house of representatives in general court convened, That the said act, with every clause thereof, be, and hereby is revived, re-enacted, and continued to be in force for the term of three years, and no longer.



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A.

Page

- ACTIONS Transitory*, How and where they must be brought, 34
Appeal, In what cases to be allowed from a decree of the maritime court, 38, 39
Action, Of account lies for one administrator against another, 83, 84
Administrators and executors exempted from arrests, 75
Appeal, From probate court, 76
Administration, How to be granted, 78
Administrators, Accountable to the judge for personal estate as appraised, 81
Administration, Where to be granted, 81
 Form of the oath, 82
 De bonis non, when and how granted, 83
Administrators, Exempted from arrests, 85
 To pay debts in specie.—See intestate estates 85
Assayers, See pot and pearl ash.

B.

- Books*, To be the property of authors for a term—See literature 162
Boards, See lumber,
Births & Burials, To be recorded by town clerks, 238

C.

- Constitution*, Of New-Hampshire, from 1 to 32
Court, Superiour established, 33
 Of common pleas, 33, 34
 Of general sessions, 34
Courts, Times and places of holding, 35, 36, 37, 39, 40, 41, 42, 43, 49
Court, Maritime, its powers and authority, 38
 How process is to issue from the judge, and how executed, 38
County Treasurer and Recorder of Deeds, Time and mode of choosing them, 50
 Sessions to declare the choice on return of votes, or determine the choice in case, 50
 Provisions in case of death or incapacity, 51
 Recorders and treasurers to give bond, 51
Conway, Town of, annexed to Strafford county, 52
Campton, Annexed to Grafton county, 52
Costs, Not to be taxed in action of debt on judgment, where execution might have issued, 70
Curtesy, Husband to hold by, 81

Confiscation

- Confiscation Act*, 85, 86, 87, 88
Confiscated Estates, Monies paid on them to be liquidated.—See judge of probate.
Congress, An ordinance of it how to be carried into effect, 167
 (168, 169, 170, 171
Constables & Collectors, Their place, how filled up when dying or absconding, 183, 184
 Collection of taxes in case of collector's death, How to be completed, 183, 184
Coin, Value of regulated, 187, 188
 Gold, weight and value ascertained 187, 188
 Former laws relating to coin repealed, 188
 Gold and silver, importation of encouraged, 198
County Treasurer, Empowered to issue executions against individuals for state and county taxes, 219, 220
Certificates.—See treasurer.
Criminals.—See treason and offenders.

D.

- Debts and Debtors*, 60 to 79
Debtors, Imprisoned not worth ten pounds, on taking oath to be discharged in case, and how, 61, 62, 63, 64
 If detained, not to be defrauded of their allowance, 62
 Prisoners for debt on giving bond to have liberty of the yard, 62
 Bond to be transferred in case of escape, 63
 Debtors may confess a debt not exceeding ten pounds before a justice, 65, 66
 The bodies of debtors exempted from prison in certain cases, where estate is tendered, 66 to 69
 Offset of debts and demands.—See offset and execution.
 Debt on judgment, in such actions no cost to be allowed in case, (70, 71
 Distribution of estates.—See estates.
 Descent of estates.—See estates.
 Depreciation of paper currency regulated, 185 to 187
 Judgment on securities given for articles specified may be rendered for the articles specified, 186, 187
Duty, Sundry articles imported free from, 197
Dying Materials.—See duty.
Duck, Building manufactories for encouraged, 205, 206
Deer, Killing at unseasonable times prohibited, 231, 232
Distracted Persons.—See idiots.
Delinquent Sheriffs and Town Clerks.—See Sheriffs.

E.

- Executions*, May be set off against each other, 64, 65
Estates

7, 88	<i>Estates Testate</i> , How to be settled,	71
-See	Estates real may be disposed of by will, and how,	71
167	Posthumous children and such as have no legacy given them to	
171	have a proportion,	71
g or	<i>Estates Real and Personal</i> , Not devised to be distributed, &c.	72
184	<i>Executors</i> , To cause probate of wills to be made, &c.	72
com-	To give bond with sureties,	73
184	Becoming insane, the judge of probate may grant administra-	
188	tion to others,	73
188	<i>Estates Real</i> , Devised in common how to be divided,	74
188	<i>Executors</i> , Their accounts not to be allowed until notice, &c.	75
198	<i>Executors Co.</i> Their remedy against each other,	75
idu-	<i>Executors and Administrators</i> , Exempted from arrests,	75
220	To pay debts in specie,	75
	<i>Executors and Administrators</i> , Act relating to repealed,	76
	See probate.	
	<i>Estates Intestate</i> , Descent of to children,	76
70	If no children to next of kin,	77
be	Children dying under age their portion to be distributed a-	
64	mong the others,	77
62	When to go to the father,	77
62	When to the mother, brothers and sisters equally to be divided,	77
63	<i>Estates Intestate personal</i> , Disposed of as real,	77
4	Widow's thirds to be decreed by judge of probate after pay-	
66	ment of debts, &c.	77
es,	<i>Estates Real</i> , To be chargeable with debts if personal be insuffi-	
69	cient,	77
	Widows dower in,	78
fe,	<i>Administration</i> , How to be granted,	78
71	Upon refusal of the widow, to one or more principal cre-	
	ditors,	78
87	Lands given by deed when charged and how to be deemed	79
n-	Children to be supported out of surplufage 'till seven years of	
7	age,	79
7	After seven, out of their respective shares,	79
	Real estate to be decreed to the eldest son in case, &c. when it	
6	cannot be divided without damage,	79
2	To other sons successively, if the eldest will not accept of it,	79
	To other relations, preference being given to male heirs,	79
	The proportion of any heir how to be set off,	80
	One party to take the land and pay other shares in money,	
	where it cannot be divided,	80
	How to be divided when in common or undivided,	80
	After partition, the parties may be obliged to pay their respec-	
	tive	

- tive parts of the charge by warrant of distress from the judge, 81
- Administrators*, How accountable for personal estate, 81
- Administration*, Where to be granted, 81
- If the intestate be not an inhabitant of the state where administration shall be granted, 82
- Heirs to be notified before licence for sale granted, 82
- Administration oath, form of, 82
- Estates Intestate*, Persons embezzling goods, &c. to be chargeable as executors of their own wrong, 82
- Persons suspected of embezzling to be sworn, 82, 83
- Administration de bonis non, how and when granted, 83
- Heirs to be notified when accounts are exhibited, 83
- Creditors not bringing in claims excluded, 83
- One administrator may bring account against another, 83, 84
- Former settlements of estates not to be effected, 84
- Right of appeal from judge of probate granted, 84
- When any decree is reversed, costs to be taxed for appellant, 84
- Notice to be given of appeal, 84
- Administrators exempted from personal arrests, 84
- To pay debts in specie, 85
- Judge to appoint guardians, 81, 85
- Former act relating to settlement of intestate estates repeal'd, 85
- All former proceedings to be good, 85
- Estates Insolvent*, Reversion of the widow's dower in them to be sold, 90
- Excise*.—See revenue.

F.

- Fees*, Altered and established, 91, 92
- Forfeitures of Land*, For non-performance of the conditions of grants, made cognizable by the superiour court, 109 to 114
- Fish*, In Piscataqua river to be preserved, 144
- Fund for orders on the treasury.—See orders.
- Fires*, Proceedings for extinguishing them regulated, 178 to 182
- Firewards*, Their duty and power, 178 to 182
- Compensation to sufferers, by their order to pull down buildings, 180
- Buckets to be provided, and how, 182
- Flax-Seed*, For exportation to be surveyed, 193
- Surveyors, appointment and duty, 193, 194
- Penalty for shifting contents of casks after surveying, and for receiving and exporting, 195,
- Surveyors neglect of duty, How punished, 195, 196
- Their fees, 196
- Surveyors, president and council to appoint them, 200
- Flax-feed

e, 81	Flax-seed casks, size of	200
81	Ferries, Prices to be regulated by sessions;	233
81	Ferryment to provide proper boats and attendance,	234
mini-	G.	
82	General Sessions.—See sessions.	
82	Guardians.—See estates.	
82	Gun-powder not to be kept in private houses;	184
le as	To be deposited in the magazine;	185
82	Keeper, how to be chosen	185
83	Gold.—See coin;	
83	Gauging of casks regulated,	198, 199
83	Gauger, how appointed; his duty;	199
83	His fees,	198
83	His oath,	199
84	Penalty for selling without gauging;	199
84	Gaugers fees enhanced;	204, 205
84	H.	
84	Highways, Former acts concerning them repealed;	60
84	In towns, or from town to town, how to be laid out;	53, 54
84	The damage to private property, how to be estimated,	53
85	Persons aggrieved; How redressed,	54
85	Taxes to be voted by towns and assessed for making and re-	
85	pairing highways;	54
85	Surveyors to be chosen and districts assigned them,	55
be	To give notice; make distress in case, and account,	55
90	Price of materials and labour to be fixed,	55
	Accidental damage in highways, how repaired,	56
	Damage from bad highways, how remedied,	56
92	Incumbrances; how to be removed;	57
of	Highways through unincorporated lands; to be made passable	
14	and kept in repair by the owners of the lands,	57, 58
44	Encroachments; What shall be deemed a nuisance and how re-	
	moved;	59
82	I.	
82	Insolvent Estates.—See estates.	
wn	Impost Duties.—See revenue.	
80	Invalids, Their support provided for	165, 166, 167
82	Idiots and distracted persons, Guardians to be appointed by judge	
93	of probate,	235
94	Selectmen, how to proceed with	235
nd	Estate to be inventoried,	235
95,	Judge of probate to imprison persons suspected of embezzling	
96	their effects in case, &c.	236
96	G g	
oo	Guardians	

Guardians to account for profit,	236
To give bond,	237
To defend suits,	237
What to be done if the ward is restored,	237
<i>Innholders.</i> —See taverners.	

J.

<i>Justices Special</i> , In what cases and how appointed,	37
<i>Jurors Petit</i> , How chosen and appointed for the several courts,	(43, 44
<i>Venire Facias</i> to be issued for them thirty days before sitting of the court,	43
None to serve oftener than once in three years,	44
Lists of jurors, to be regulated once a year,	44, 45
Notice to be sent to the persons appointed,	45
Names of jurors, to be certified on the venire returned,	45
Penalty for not attending,	45
May be sworn respecting their impartiality,	45
May be appointed during the setting of the court,	45, 46
Justices, Any two of common pleas, may administer oath to poor prisoners,	64
Three to determine disputes respecting the poor.—See poor,	(46
May take a debtor's confession of a debt, not exceeding ten pounds, and issue execution,	65
Rule to refer small controversies, May be entered into before a justice,	65, 66
<i>Judge of Probate.</i> —See probate.	

L.

<i>Lands common and undivided</i> , The proprietors enabled to call meetings, and to levy and collect taxes, &c.	93
Justices enabled to issue warrants on application to call proprietors meetings,	93
Proprietors enabled to choose any officers necessary,	93
Estate of proprietors to pay their proportion of taxes,	94
Collectors duty,	94
Liberty, for redemption within two months, paying interest and charges,	95
Persons absent, To have six months time for redemption,	95
Proprietors authorized to confirm any vote,	95
Lotts may be assessed and sold for taxes,	95
Former proprietary transactions made valid,	96
Proprietors enabled to lay taxes for proprietary charges,	97
<i>Light-House</i> established,	130
Expence, How defrayed,	130

Light

Light money due on anchorage only,	131
Laws heretofore in force, to remain so,	160
Literature encouraged,	161, 162
Lumber, Surveyors of, how appointed, their fees and duty,	188
	(189
Dimensions of, regulated,	from 189 to 191
Viewers and cullers to be appointed, their fees and duty,	191
Staves and Hoops to be surveyed and culled,	191
Penalty for delivering, exporting, or receiving them, unless surveyed and culled,	192
Master or owner of vessel to produce certificate,	192
Boards to be surveyed and culled,	192, 193
Penalty for neglect of duty in surveyor,	193
Plank, the standard of,	103
Former acts repealed,	193
Linseed Oil, Mills not to be taxed for ten years,	196
To be shipped free of duty,	197
Proviso,	197

M.

Mason's Patent, Western bounds of, a committee authorized to settle,	103, 104
Bona-fide purchasers quieted in their possessions,	104
Committee authorized to dispose of the land between the straight and curve lines, to the Masonian proprietors,	105
	(106
Masonian Proprietors enabled to assess and levy taxes on the above lands,	107
Time of redemption limited,	108
Manner of voting for the proprietors pointed out,	108
Military establishment,	from 114 to 126
Monies arising by acts of court appropriated,	218
Marriages, By whom to be solemnized,	238
Fine for marrying without publishing,	238
To be recorded by town-clerks,	238

N.

New-Holdernefs annexed to Grafton county,	52
Naval-office established,	126
Naval-officer's fees,	127
Naval-office regulated,	129
Its revenue appropriated,	158
Nail-making.—See prisoners.	

O.

Officers Civil, Their power as heretofore,	34
Offset pleaded, When it exceeds the plaintiffs demand, the balance	

- ance being found, judgment shall be rendered for defendant to recover it, 70
- Orders on the Treasury*, Fund for their discharge, 157
- To be drawn in small sums on request, 157
- Certificates to be so drawn, if requested, 157
- Specie orders to be paid out of the specie taxes, 158
- Orders drawn to express the fund, 158
- Treasurer to furnish secretary with account of sums due for excise, impost, &c. 158
- Ordinance of Congress*.—See Congress.
- Officers of towns*.—See town.
- Oil*.—See linseed oil.
- Offenders fleeing from justice from another state*, how to be dealt with, 225, 226
- Justices impowered to apprehend and send back such as flee from justice, 225
- Officers of a neighbouring state to pass without hindrance in pursuit of criminals, 226
- P.
- Processes*, How directed, 34
- Begun and pending, to be sustained, 36
- How to issue from the judge of the maritime court, &c.—See courts,
- Prohibition*, Writ of to the judge of the maritime court, how, and in what cases granted, 39
- Petit Jurors*.—See jurors.
- Poor*, Disputes concerning their support to be determined by three justices, 46
- The Justices, to make order, tax cost, and issue execution, 46, 47
- Mode of proceeding in case such justice's orders are disobeyed, 47
- Persons aggrieved at the order, may petition the superiour court, 47, 48
- Trial and proceedings thereon, 48
- Disputes*, Where paupers remove from one county to another, how, and by whom to be determined, 48
- Persons aggrieved may petition the superiour court, &c. 49
- Prisoners for Debt*.—See debts and debtors,
- Posthumous children provided for, 71
- Probate Court*, Judge to order a division, on application, where real estates by devise are held in partnership with others, 74
- So where such real estate is held in common with other devisees, 74
- Appeal from, How regulated, 76
- Decrees from, if reversed, cost to be taxed for the appellant, 76
- Notice to be given, 76
- Costs,

- Costs, How to be taxed, 76
- Administration, How to be granted, 78
- Probate judge of, How to proceed in settling intestate estates, 78
See estates. (from 77 to 85)
- Judges of probate to liquidate the sums paid by trustees of
confiscated estates, 88, 89, 90
- To average the sums of confiscated insolvent estates, 89
- Judge of probate empowered to cause partition of lands on ap-
plication, 101
- He may assign the land to one of the parties when it cannot be
divided without damage, 101
- Partition not to be ordered 'till notice given, 102
- Either party refusing to pay their proportion of charges, the
same shall be levied by warrant, 102
- Appeal to superiour court granted, 102
- Two former partition acts repealed, 103
- Pilotage regulated,* 131, 132, 133
- Proprietors.*—See lands undivided.
- Partition.*—See probate.
- Powder-money,* Act concerning it explained and extended, 159, 160
- Peace,* Treaty of.—See treaty,
- Poor,* Who live idly to be set at work, or placed out after warn-
ing, 172, 173, 174
- Parents unable to maintain their children to be directed by se-
lectmen or overseers to bind them out, 173
- On their neglect the selectmen or overseers may bind out such
children, 172, 173
- Shall inquire into their usage, 173
- Earnings of poor placed out, to be applied to their support, 173
- Persons taking them to have authority over them, 173
- Powder.*—See gun-powder.
- Paper currency.*—See depreciation.
- Pot and Pearl-Asb* for exportation to be assayed, 194
- Assay-masters, How appointed, their duty, 194
- Penalty for receiving or exporting without assaying and
marking, 195
- Penalty for shifting contents of casks, 196
- Assayers, Neglect of duty, how punished, 195, 196
- To assay and mark casks, 196
- Fees of office, 196
- Assayers of, How appointed in other than seaport towns, 200
- Prison-yards* to be enlarged, 202
- Prisoners convicted to work at nail-making, 202, 203
- Their wages, 202
- Prison-keepers, their power and duty, 203, 204
- Prisoners

Prisoners for debt may be employed,	204
Proportion established for regulating taxes,	206 to 212
Publishing.—See marriage.	
R.	
Recorder of Deeds.—See county recorder.	
Reversion of the Widow's dower, in insolvent estates liable for the deceased's debts,	90
Redemption of Lands sold for taxes, Time lengthened, the owners paying taxes and charges,	104
Revenue, Excise granted,	145
Receiver of excise to be appointed,	146
Account to be rendered quarterly, on oath, if required,	146
Penalty for refusal,	146
Forfeiture for selling without licence,	146
Penalty for refusing to give evidence,	146
Fines to be in satisfaction for quarterly excise,	147
Sessions to grant licence,	147
Excise increased,	147
To be sold at vendue,	147
Penalty for not paying excise,	149
Offences to be proved by common law evidence,	149
Excise increased,	150
Articles subject to excise enumerated,	150
Forfeiture for selling without licence,	150
Wholesale purchasers for consumption to pay excise,	150
Oath to be taken by such,	150
Who considered as such,	151
Time of sale of excise,	151
Treasurer to issue extents against delinquent collectors,	151
How licence is to be obtained,	151
Taverners to pay one fourth more than retailers,	151
Owners of carriages, &c. to be sued for the excise in case of neglect of payment,	152
Impost duties on goods imported,	152, 153
Value of the goods, How determined,	153
Master to make report of his cargo,	154
Not to land goods without a permit,	154
Waggoners, &c. To make report,	154
Offences against the act, how tried,	154
Penalties,	154
Libel to be filed in case,	154, 155
Continental rum excepted,	155
Impost officers may enter on board any vessel coming into port, and remain till report,	155, 156
Bonds for duties to be paid in silver or gold,	156
To	

- To be lodged with the treasurer in case, 156
 Treasurer to issue an extent, 156
 Impost officer to give bond, 156
 Excise and impost appropriated, 157, 158
 Impost act revived, 159
 S.
Sessions, General, Number of terms reduced, 149
Surveyors of highways.—See highways,
Sabbath Act, 134, 135, 136
 Former acts repealed, 136, 137
Small-pox, Provision against its spreading, 137, 138, 139
Salmon and Shad, in Connecticut river preserved from destruc-
 tion, 139
 Salmon and Alewives, Their destruction in Merrimac river to
 be prevented, 141, 142, 143
Sheriffs and Town-clerks, Delinquent to be fined, 145
Specie Orders on the Treasury.—See orders.
System of Laws.—See laws.
Seal of the state established, 161
Swine, Regulations concerning them, 174
Staves and Shingles.—See lumber. 175, 176, 177
Slitting-mills exempted from taxes, 201
 Labourers in them exempted from poll tax, 201
 Premium for first mill, 201
Prisoners employed in nail-making.—See prisoners, 202 to 205
Sail Cloth.—See duck.
Sheriffs impowered to sell lands for taxes, 220
State notes, Date altered, 221
Retailers, &c.—See taverners.
 T.
Trial, Mode of it in the maritime court.—See courts. 38
Treasurer County.—See county treasurer.
Taxes for repairing Highways.—See highways.
Trespases, Provided against 98, 99
 Plaintiffs Oath, &c. made sufficient evidence unless the defend-
 ant will clear himself on oath, 98, 99, 100
Trespases on waste lands, Or lands of refugees punished with
 fine, and possession made void, 100
Treaty of peace, Act in compliance with it, 163
 Acts repugnant to it repealed, 163, 164
Town officers may be sworn by town-clerk, or one of the select-
 men, 174
Taxes proportioned.—See proportion.
Taxes, Mode of making them, 212, 213, 214
 Mode of collecting them, 215, 216, 217
 Collectors

Collectors authorized to sell non-residents' lands,	216
Time of redemption for non-residents,	216
Former act repealed,	217
Form of collectors' deed of sale,	217, 218
Certain monies appropriated,	218
State and county treasurers impowered to issue execution against individuals for state and county taxes,	219, 220
Sheriff impowered to sell lands of delinquent collectors for taxes,	220
Treasurer, Impowered to issue certificates,	221
Form of certificates prescribed,	221
Treasurer and Loan Officer to issue certificates for interest,	222
Treasurer to issue certificates to amount of fifteen per cent. on principal,	222
Directed to give new notes,	223
Interest, How computed,	223
Directed to give certificates,	223
Depreciation notes, equal to gold and silver,	223
Form of treasurer's notes,	224
Form of certificates,	224
Treason, Who to be deemed guilty of,	227
Misprision of, What,	227
Information to be given in fourteen days,	227
Committed without the state, How to be dealt with,	228
Treasonable offenders to be indicted, and bill found before trial,	228
Persons fleeing to avoid trial, may be outlawed,	228
Mode of trial pointed out,	228, 229, 230
Taverns and Taverners,	from 239 to 244

W.

Wills, How to be executed,	71
How to be proved.—See estates.	72
Widow's thirds in personal estate,	77
Waste Lands ascertained.—See Mason's Patent.	
Wolves, Killing them encouraged,	232, 233
Former acts relating to, repealed,	232
Premium for killing, enlarged,	234
Selectmen to receive the heads,	235

**ERRATA.**—Page 84, line 17, after sentence, read order or denial.

- 103, l. 4, from the bottom, for instruction, r. construction.
 110, l. 9, for attested, r. tested.
 111, l. 1, for any, r. the.
 140, l. 23, for wheresoever, r. whensoever.
 202, l. 5, for alter, read order; and dele first marginal note.
 205, l. 24, after judgment, r. of the selectmen.
 208, l. 23, for Dunbury, r. Duxbury.
 212, l. 30, after public, r. rates and taxes.
 214, l. 4, from the bottom, for unincorporated, r. unimproved.

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